BENCHMARKS IN AMERICAN HIGHER EDUCATION: SELECTED APPROACHES FOR DISTANCE EDUCATION COPYRIGHT AND INTELLECTUAL PROPERTY POLICIES

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An evaluation of American higher education distance education programs was conducted to explore how they approach intellectual property, copyright and information sharing/antitrust policy concerns for Internet-based programs. An evaluation of the current status of distance education and Internet-based training in higher education was conducted through a pilot study that included a random sample of 223 accredited institutions. Seventy-seven institutions responded to a survey, of which there were 14 Research I&II, 17 Doctorate I&II, and 46 Master's I&II institutions included in this study. A review of institutional policy approaches for these 77 institutions was conducted via Internet Web site and bulletin review. A multiple-case study was also conducted which included 10 of the top 30 accredited distance education institutions in America. Policy approaches were examined for all institutions and differences were discussed for public and private institutions as well as the following Carnegie Class institutions- Research I&II, Doctorate I&II and Master's I&II. Ten percent of all institutions that responded to the pilot study developed a written policy addressing antitrust/information-sharing concerns. Additionally, the data indicated that 22% of institutions in these Carnegie Class ranges published copyright and intellectual property policy on their institutions' Internet Web site. Ninety percent of the institutions in the

case study advised of central control for the distance education program, as well as central control for copyright and intellectual property policy.

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CHAPTER 1

INTRODUCTION

Higher education institutions are developing more partnerships with outside consortiums in business and industry to offer distance education and training via the Internet (Dillon & Cintron, 1997). With this trend, institutions face new opportunities, compounded by a broader array of business risks. Peterson's (1999) Guide to Distance Learning lists over 900 accredited institutions in America that offer distance education courses, whereas in 1994 less than 100 institutions were identified by that publication for distance education courses. Federal antitrust regulations, copyright law changes incorporated into the Digital Millennium Copyright Act of 1998 (Diotalevi, 1998), and intellectual property litigation will be areas of potential risk for many institutions as they move toward full-scale offerings of Internet-based distance education. Over 62% of public 4-year institutions and 12% of private 4-year institutions offered distance education courses in 1995, with an expected growth rate of 20% per year (National Center for Education Statistics (NCES), 1997).

Kaplin and Lee (1995) observed that institutions of higher education should develop policies and procedures to limit their exposure to federal antitrust regulation. A pilot study (Smith, 1999) reported that only 3% of private institutions and 10% of public institutions had developed formal policies to address federal antitrust legislation.

Distance education and Internet-based training open broader areas of potential business risks for higher education institutions engaged in these activities. In the past 13

years, over 100 four-year institutions of higher education have closed, which is about double the number that terminated the previous decade (Eddy, 1999). Internet-based distance education is growing and this is a means some higher education institutions will use to remain viable. Management philosopher Peter Drucker (Gubernick & Ebeling, 1997) stated, "Universities, as we know them, won't survive. The future is outside the traditional classroom. Distance learning is coming on fast"(p. 45). Dillon and Cintron (1997) have suggested that institutions must develop clear policies regarding "copyright, fair use, duplication, and revenue generation for print and non-print educational materials"(p. 17). This includes faculty-produced course materials developed for Internet distance education, technology transfer, collaboration with outside consortiums for course material preparation, and other business ventures.

This study includes a review of the current status of policy in higher education for three areas where institutions' risks may increase due to the rapid growth of Internet distance education (Dillon & Cintron, 1997, Matkin; 1990; Richmond, 1993). The risk of litigation in the following areas is increasing, and institutions operating under policies designed prior to the proliferation of the Internet-based distance education may need to overhaul policies in these areas: (a). intellectual property rights issues among faculty regarding Internet-based course material, ownership, royalties and workloads, (b). copyright issues in Internet-based distance education and institutional impact of the Digital Millennium Copyright Act, and (c). information sharing among institutions and outside concerns that may be subjected to federal antitrust legislation.

This study has utilized antitrust data collected in the pilot study (Smith, 1999) to provide a general overview of the condition of policy and attitudes of chief business

officers toward antitrust risk in the age of information sharing. The study provides an overview of Web-based intellectual property and copyright policy among a random sample of institutions based upon their Carnegie Classification and Public/Private Control. In the new era of Internet-based distance education, an effective method for disseminating these policies is with clear posting on the institutions' Web site (Z. Berg, 1999; Gellman-Danley & Fetzner, 1998). Additionally, the case study method was utilized to analyze the policies of the top selected institutions to develop a "best practices" recommendation for institutions to consider in their review of polices toward intellectual property and copyright pertaining to Internet-based distance education. Eddy (1999) identified several factors that may be considered "best practices" for litigation avoidance in intellectual property and coursepack material developed by faculty. Some of these factors include (a) at Research I&II institutions, the provision of sufficient incentives through bonus payments or royalty payments negotiated by the institution with the faculty member; (b) in religious distance education, the fact that many faculty members provide their works as a religious commitment; and (c) the prestige of an institution and the faculty member's ability to gain notoriety by associating his/her work with the institution.

A "best practices" overview was provided for antitrust issues relating to information sharing among institutions and outside concerns. Carlson, Nickels, and Street (1992) advised of the importance of policy and procedures to direct institutional administrators in this area.

By entering the distance education and Internet-based training field, higher education institutions will face different business risks than they have in the past.

Policies developed to address copyright and intellectual property issues prior to the proliferation of the distance education and Internet-based training should be reviewed and updated to address these new risks (G. Berg, 1997). Are institutions equipped to handle risks related to Internet technology and the proliferation of copyright and intellectual property? Are private institutions better equipped to handle such issues? Does the mission of the institution, based upon its Carnegie Classification, have an impact on its ability to prepare efficient and effective policies to handle these issues? Do institutions that publish these polices on their Web sites provide more potential protection against possible litigation? What are the "best practices" in American higher education toward policies to minimize risk of litigation in these areas?

Statement of the Problem

Due to the rapid growth of Internet-based training in distance education at American higher education institutions, there may be increased legal exposure for these institutions for copyright, intellectual property and antitrust issues. What are the current American higher education approaches to these issues? Do public institutions have different approaches than private institutions? How do Research I&II, Doctorate I&II and Master's I&II institutions approach these issues?

Significance of the Study

The findings in this study will be useful to a large number of institutions that have recently entered the distance education and Internet-based training market or that plan to

in the near future. The "best practices" case study will provide a general overview to institutions that have not developed policies toward copyright, intellectual property, and antitrust risk. Additionally, it will provide useful information to institutions that have existing policies but may find the need to update the policy approach based upon the rapid changes in Internet-based training. An institution that does not publish policies on its Internet Web site, or centrally control these policies, may find the "best practices" information applicable for implementation of policy approach changes for improvement. An institution that buys and or sells distance education course development materials and systems may find the data regarding information sharing/antitrust policy to be useful.

Limitations

The pilot study was based upon the population of all higher education institutions in the United States. A random sample was developed, and a survey was administered. The difficulty of surveys (Rea, 1991) is the historically low return rate of mailed surveys and the potential difficulty of generalization of the results to the entire population. The pilot study return rate was considered adequate based on the population size (Rea, 1991), but the perceptions solicited based upon the Likert-scale questions should be evaluated carefully due to the legal nature of the questions and the potential for administrators to provide answers that they may perceive as risk-free. The descriptive data were considered to be adequate, and the results may be generalized to the population (Rea, 1991). Associates and Specialized institutions are not included in this study.

Another potential limitation is the lack of perception that the case study method is a widely recognized research method by some practitioners (Morgan, 1991). The best

practices multiple case study was conducted in accordance with generally accepted case study methods (Stake, 1995; Yin, 1994), and the findings should be viewed with an objective measure.

Additionally, 10 of the highest rated programs utilized for the multiple case study are based on Peterson's(1998) Guide to Distance Learning and were studied for various demographic data and analyzed for appropriate inclusion in the study.

Included in the multiple case study will be an investigation of a long standing, successfully operated worldwide distance education institution of higher education. According to Peterson's (1998) Guide to Distance Learning, this program is one of largest distance education universities in the United States in terms of estimated enrollment, and estimated total revenue received for distance education tuition and fees.

In order to keep the data anonymous, institutions were referred to only by their Carnegie Classification and the accreditation region in which they are located.

Definitions

Terms and concepts that require further explanation are provided below:

The Carnegie Classification is a rational grouping of colleges and universities and other institutions of higher education based upon several criteria. These criteria include types of degrees granted, mission of the institution, and level of accreditation. The following categorical definition is applicable to this study(Evangelauf, 1994):

1. Research Universities I&II-- Research Universities I award 50 or more doctoral degrees each year and receive $40 million or more annually in federal support. Research Universities II award 50 or more doctoral degrees each year and receive

between $15.5 million and $40 million in federal support. Both are committed to graduate education and give a high priority to research.

2. Doctoral Universities I&II-- Doctoral Universities I award at least 40 doctoral degrees annually in at least five disciplines. Doctoral Universities II award at least 10 degrees in three or more disciplines or at least 20 in one or more disciplines. Both offer a full range of baccalaureate programs, and both are committed to graduate education through the doctorate degree.
3. Master's Universities and Colleges I&II-- Master's I award at least 40 master's degrees annually in three or more disciplines. Master's II award at least 20 master's degrees annually in one or more disciplines. Both offer a full range of baccalaureate programs and are committed to graduate education through the master's degree.
4. Baccalaureate Colleges I&II-- Baccalaureate I colleges are selective in admissions and award 40 % or more of their degrees in liberal arts fields. Baccalaureate II colleges are less selective in admissions and/or they award fewer than 40% of their degrees in liberal arts fields.
5. Associates of Arts Colleges-- These institutions offer certificate or associate of arts degree programs.
6. Professional Schools and Specialized Institutions-- These institutions offer degrees ranging from the bachelor's to the doctorate. At least 50% of the degrees awarded by these institutions are in specialized fields. Specialized institutions include: theological seminaries, medial schools, engineering schools, business

management schools, art and music schools, law schools, teacher's colleges, tribal colleges, and other specialized institutions.

Benchmarking is a "continuous, systematic process for evaluating the products, services and work processes of organizations that are recognized as representing best practices for the purposes of organization improvement"(Spendolini, 1992, p. 83).

Best practices are specific processes, policies and/or procedures identified across an industry which are considered to represent the most efficient use of resources and that provide standards for other organizations within the industry (Seaman, Ogden, Hopkins, & Back, 1994).

Distance education and Internet-based training is a form of education in which students are separated from their instructors by time and/or space. Distance education is utilized in some form at every level of the educational spectrum, with the most extensive use in higher education (Peters, 1999). Internet-based training is the use of distance education over a telecommunication network of modems and phones lines so that the student may access courses remotely through use of a computer.

Geographical region is defined as the state associated with the major college and university accreditation associations, as follows:

Region 1- Middle States Association of Colleges and Schools- Delaware, Maryland, New Jersey, New York, Pennsylvania.

Region 2- New England Association of Schools and Colleges- Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont.

Region 3- North Central Association of Colleges and Schools- Alaska, Arizona, Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri,

Nebraska, New Mexico, North Dakota, Ohio, Oklahoma, South Dakota, West Virginia, Wisconsin, Wyoming.

Region 4- Northwest Association of Schools and Colleges- Idaho, Montana, Nevada, Oregon, Utah, Washington.

Region 5- Southern Association of Colleges and Schools- Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, Virginia.

Region 6- Western Association of Schools and Colleges- California, Hawaii.

CHAPTER 2

PILOT STUDY OVERVIEW

A national pilot study was conducted to review the perceptions of higher education administrators toward federal antitrust issues and policy implications (Smith, 1999). The study sought to determine the perceptions of chief business officers of institutions of higher education regarding the proprietary aspects of their institutions and the potential business risk imposed by federal antitrust legislation in these areas. It provides an overall baseline for administrators to compare their institution's utilization of proactive resources to monitor and reduce these risks with other similarly situated institutions.

The theoretical perspective of this study was based upon a literature review (Kaplin & Lee, 1995; Richmond, 1993; Sieb, 1985; Spinella, 1988; Srinivasa, 1994) that indicated antitrust to be a risk area for higher education institutions. In this review, authors pointed to the increased risk that institutions of higher education would face by engaging in more commercially related activities. The nonprofit aspect of higher education in the United States is no longer a given protection from these risks as case history has developed broader areas of exposure for higher education. An example of this exposure includes the court decision in United States v. Brown University (1993). The U.S. Department of Justice investigated a commonly held practice of Ivy League institutions regarding the information sharing of applicant financial needs. The practice had been active since the 1950s. The Court determined that the practice violated the horizontal price-fixing section of the Sherman Act because the action constituted a

commercial transaction that directly affected students' tuition payments (Sieb, 1985). The Court rejected defense arguments that the information sharing by the institutions was a charitable process and instead determined that the process was commercial activity subject to antitrust review. The case was settled, with the Ivy League participants and Massachusetts Institute of Technology agreeing to refrain from setting tuition, salaries, or aid in cooperation with any other school (Sieb, 1995). Dartmouth College spent over $400,000 in legal fees to support its position in connection with this Department of Justice investigation (Carlson et al, 1992).

Prior to 1970 it was believed that antitrust laws had little impact on higher education institutions. As institutions engaged in the "liberal arts and learned professions" rather than "trade or commerce," they were considered low-risk candidates for any potential antitrust litigation. Additionally, public institutions of higher education were considered, under the state action doctrine developed in Parker v. Brown (1943), to be immune from antitrust liability (Kaplin & Lee, 1995). Institutions of higher education no longer have the comfort level they once enjoyed regarding potential antitrust liability. In 1975, the U.S. Supreme Court established that the nature of an occupation, standing alone, does not provide relief from the Sherman Act (Goldfarb v. Virginia State Board, 1975). Prior to this decision, the Court, in Marjorie Webster Junior College v. Middle States Association of Colleges and Secondary Schools (1970), clarified that "the antitrust laws could nevertheless be applied to the commercial aspects of higher education and that the educational institutions and associations could be subjected to antitrust liability if they acted with commercial motive"(Kaplin & Lee, 1995, 128).

The antitrust regulations include the Sherman Act(1890), Robinson-Patman Act(1934), Clayton Act(1914) and the Federal Trade Commission Act(1914). Under the Sherman Act, the statutory language "reflects a broad principle that private attempts to eliminate free and open competition are prohibited"(Kaplin & Lee, 1995, p. 130). The act does not provide a clear definition of "restraint of trade," and it does not clearly prohibit all varieties. However, it does prohibit "unreasonable" restraint of trade and since 1970 has been used by plaintiffs in several cases against institutions of higher education.

The Robinson-Patman Act of 1934 reveals strong legislative history and concern for protecting small retailers and wholesalers from larger, more capitalized firms. Under the act, "sellers and buyers are prohibited from granting or receiving commission, brokerage, or any allowance or discount in lieu thereof, except for services rendered in connection with the sale or purchase of goods"(Kaplin & Lee, 1995, p. 130). This has strong implications for retail operations in higher education, including bookstore activity and restaurant/concession activities.

The Federal Trade Commission Act of 1918 gives the FTC broad powers to prevent unfair methods of competition in commerce and unfair or deceptive acts or practices in commerce. The Sherman Act, however, offers the most exposure to institutions of higher education (Richmond, 1993).

Data for the pilot study were gathered based upon a random sample of U.S. institutions and survey based upon the institutions' Carnegie Classification. The list of all institutions in the U.S. by state (Rodenhouse, 1997) was utilized to select the random sample. A random starting point was used, and a selection method based upon every

third observation was utilized to generate the sample. The survey sample size and return rate are included in Table 1.

Table 1

Pilot Study Sample Overview

Institution	Total Population	Survey sample	Survey sample %	No. of return Survey	% of return surveys
Res I&II	125	33	26%	14	42%
Doc I&II	111	29	26%	17	59%
Masters I&II	532	161	30%	46	29%
Bac. I&II	633	202	32%	52	26%
Associates	1480	244	16%	57	23%
Specialized	690	160	23%	18	11%
Overall	3571	829	23%	204	25%

The pilot study survey was administered between June 1998 and September 1998. The population included 3,665 institutions of higher education in the United States that were listed in the Higher Education Directory (Rodenhouse, 1997). A sample size of 840 was randomly selected for the purposes of the pilot study, and 224 surveys were returned, of which a total of 204 were usable and included in the study. The return rates by Carnegie Classification are outlined in Table 1. Of the usable returned surveys, 48% were from private institutions, and 52% were from public institutions.

The study utilized a Likert-Scale question sequence and found differences in the attitudes of chief business officers toward antitrust risk in proprietary activities based upon the Carnegie Classification of the institutions as well as their public/private control.

The Carnegie Classification is an indication of the institutional mission and shows the potential level of systems and policy sophistication that could be applicable to the complicated new policy issues faced in distance education and Internet-based training (Dillon & Cintron, 1997; Rodenhouse, 1997). The findings in the pilot study that deal directly with the current study include the institutional use of resources and policy to monitor antitrust issues and the overall attitudes of chief business officers toward antitrust risk in joint ventures and projects with outside concerns. Chief business officers at randomly selected higher education institutions were asked the following question, with the responses summarized in Table 2:

"Your institution engages in joint projects with businesses that utilize the services of your faculty, staff and students in order to generate revenue for the institution" A scale of 1(Strongly Disagree) to 5(Strongly Agree) was provided for this question.

Table 2

Chief Business Officer' Perceptions Toward Antitrust Risk and Joint Projects With Outside Concerns

	Strongly disagree		Disagree		Neutral		Agree		Strongly Agree		Total
Res I&II	1	7%	4	29%	4	29%	4	29%	1	7%	14
Doctorate I&II	2	12%	4	24%	5	29%	5	29%	1	6%	17
Masters I&II	8	17%	17	37%	11	24%	8	17%	2	4%	46
Baccalaureate I&II	26	50%	10	19%	9	17%	3	6%	4	8%	52
Associates	23	40%	11	19%	5	9%	12	21%	6	11%	57
Specialized	8	44%	2	11%	3	17%	5	28%	0	0%	18
Total	68	33%	48	24%	37	18%	37	18%	14	7%	204

Table 2 provides a summary of the responses for antitrust risk in joint projects with outside concerns. In distance education, many institutions utilize outside concerns

to prepare courses, establish Internet protocol, and maintain the distance education links (Dillon & Cintron, 1997). In the pilot study, approximately 35% of the Research I&II and 34% of Doctorate I&II institutions agreed that they face some type of antitrust risk in joint projects. Approximately 21% of the Master's I&II, 32% of the Associates, and 28% of the Specialized institutions agreed that they face some type of antitrust risk in joint projects.

Table 3 summarizes the responses of chief business officers to the following question: "Your institution adequately considers the potential antitrust risk implications (for information sharing, proprietary activities) and takes proactive measures through policy and/or procedure to minimize antitrust risk." A scale from 1(Strongly Disagree) to 5 (Strongly Agree) was provided for responses.

Table 3

Chief Business Officers' Overall Perceptions Toward Institutional Preparedness for Antitrust Risks

	Strongly disagree		Disagree		Neutral		Agree		Strongly Agree		Total
Res I&II	1	7%	2	14%	5	36%	2	14%	4	29%	14
Doctorate I&II	2	12%	2	12%	5	29%	3	18%	5	29%	17
Masters I&II	9	20%	8	17%	12	26%	14	30%	3	7%	46
Bac. I&II	14	27%	12	23%	14	27%	9	17%	3	6%	52
Associates	10	18%	10	18%	21	37%	9	16%	7	12%	57
Specialized	5	28%	4	22%	5	28%	4	22%	0	0%	18
Total	41	20%	38	19%	62	30%	41	20%	22	11%	204

Forty-three percent of the Research I&II, 47% of the Doctorate I&II, and 37% of the Master's I&II indicated that their institutions took proactive measures to offset federal antitrust risk. These are the institutional categories identified as the leaders in the federal antitrust policy awareness among higher education institutions.

Approximately 10% of all participating institutions had developed a written policy toward antitrust risk. When delineated by Carnegie Classification, 16% of the Research I&II, 14% of the Doctorate I&II, and 7% of the Master's I&II institutions had developed some type of written policy toward antitrust risk. Additionally, approximately 31% of Research I&II, 32% of Doctorate I&II, and 13% of Master's I&II institutions assigned an official institutional resource to monitor federal antitrust issues (Smith, 1999).

Based upon the pilot study findings, the focus of this distance education policy study was on institutions in the Carnegie Classifications of Research I&II, Doctorate I&II and Master's I&II. Therefore, the Internet Web page review of distance education and policy statements will focus on these three categories and will include 77 institutions. The institutions selected for the best practices case study were selected based upon the size, distance education enrollment and course offerings as provided in Peterson's (1998) Distance Learning Guide.

CHAPTER 3

LITERATURE REVIEW

The market for higher education has changed with the proliferation of Internet-based distance education, and public and private institutions are offering more course specifically for internet-based learning (NCES, 1997). According to Denning (1996), "Market and political forces are conspiring to generate a new design for universities. The only questions are who's in, and who's out and who new is going to show up and compete for our customers"(p. 33). The University System of Maryland (1996) identified distance education as both a threat and an opportunity to higher education institutions. The threat concerns new competition such as institutions of higher education have never seen before and the opportunities are the increased demand for higher education in the form of Internet-based training. In its major recommendations to institutional members in 1996, the University System of Maryland included the following:

> Institutions will review and revise, as needed, polices and procedures that affect program development, delivery and evaluation to support distance education, and Institutions and the System will assure that policies on intellectual property balance faculty, staff and institutional rights in development of distance education courseware (p. 38).

The recommendations focused upon faculty reward systems for new roles and activities and efficient polices to deal with the new risks. Other institutions, including

Pennsylvania State University, California State University, and State University of New York have developed similar positions toward the era of distance education and Internet-based training.

Colyer (1997) observed the following concerning the advent of Internet-based training:

It is now possible for institutions to make entire courses, programs and degrees available for the distance learner through computer technology. The user can download, in a few minutes, more information than was contained in entire libraries during medieval times, and the Internet is growing by leaps and bounds (p. 28).

The Internet renders most current copyright and royalty systems obsolete due to the logistical problems involved in controlling information after it is made available electronically. The problem is further compounded by the increasing speed of access to information through new computer technology.

Definition and History of Distance Education

Distance education incorporates new technology into the instruction environment while opening new approaches to the teaching/learning process removed from the traditional classroom environment. This definition of distance education is appropriate for the present study. As technology moves forward in Internet-based training, institutional policies will also need to change.

Copyright law was established during the age of print, and it is firmly grounded in the tenets of capitalism. In the 18th century, the 1710 Statute of Anne was considered to be the first copyright law (Colyer, 1997). Knowledge was considered the impetus for the free and open market, wherein the tenets of capitalism, supply and demand, were applied based upon new knowledge and information. Knowledge was "an item of trade in an open marketplace" (Bennett, 1993, p. 13).

For over 150 years, distance education has been provided, first as correspondence education (Keegan, 1986). Formal correspondence programs were established in Europe during the late-19th century, where print material was provided to the student who worked on an individual and independent study basis (Young, 1984). The English extension movement provided for a shift from the elitist educational approach to a service-oriented approach designed to meet the needs of the labor class. "A new type of university education was formed, utilitarian in approach, based on social needs, and not confined to campus study. For the first time, students were provided with alternatives that allowed enrollment at a distance from the campus"(Garrison & Shale, 1990, p. 83). During the 1850s, the Reverend W. Sewell of Exeter College, Oxford, established off-campus study through a system of lectures. Soon thereafter, James Stuart established the University Extension System at the University of Cambridge (Bittner & Mallory, 1933, p. 32).

In 1881, William Rainey Harper devised the Correspondence School of Hebrew and then the correspondence program at Chautauqua University. In 1882 he became president of the University of Chicago and established the first university correspondence extension division. Charles Van Hise, president of the University of Wisconsin, revitalized correspondence instruction. Van Hise offered Wisconsin citizens a

correspondence system that included languages, political science, history, sociology, mathematics and applied sciences (Garrison & Shale, 1990, p. 43). He appointed William Lighty as full-time director of correspondence instruction, concluding that previous weaknesses in the correspondence system were due to a lack of administrative support (Garrison & Shale, 1990).

The U.S. Bureau of Education published Reber's report on University Extension in the United States. Thirty-two American colleges and universities were reported to have correspondence programs and operating extension education divisions (Garrison & Shale, 1990).

The first large-scale public correspondence education institution to emphasize new media methods for delivering education to its students was the British Open University (Keegan, 1986). During the 1970s, over 20 universities worldwide had commenced to offer study centers and correspondence education (Young, 1984).

The evolution of media for distance education has moved from printed course material delivered via postal service to one-way radio broadcasts in the early 1920s. William Lightly, of the University of Wisconsin, pioneered educational radio by establishing the first university radio station, WHA, in 1920. By the 1930s and early 1940s, 20 educational radio stations were broadcasting in the AM band; many were affiliated with universities, including the University of Wisconsin, University of Iowa, University of Minnesota, Ohio University and the University of Oklahoma (Keegan, 1986).

Television in distance education was established in the late 1940s, and by 1952 10% of the channels were reserved for educational groups. Between 1948 and 1952,

there were 108 television stations in the U.S. but only one, WOI-TV in Ames, Iowa, was owned and operated by an educational institution, Iowa State College (Garrison & Shale, 1990).

In 1999, about 2 million students took some kind of distance learning course while over 14 million attended traditional institutions of higher education (Eddy, 1999). The University of Phoenix offers entire degrees by Internet-based training and more colleges are beginning to do this as distance education course offerings have almost tripled since 1996(Eddy, 1999).

Distance education began to see rapid changes with the advent of the low-cost computer in the 1990s and the proliferation of the Internet. Computer-assisted instruction and software development began in the early 1980s as well as two-way video conferencing (Garrison & Shale, 1990).

Theoretical Perspective and Policy Issues

There is ample case history and journal literature in the field of distance learning and technology-based training, which indicates that a weakness exists with respect to policy in this area. Kaplin & Lee (1995) indicated that institutions should develop policies to protect their interests in these areas. Eddy and Spaulding (1996) and Eddy, Burnett, Spaulding and Murphy (1997) found that weaknesses exist in policy related to distance education. Two theoretical perspectives on policy in higher education have been posed. One, by the U.S. Copyright Office (Peters, 1999), stated that a wide diversity in licensing procedures exists among educational institutions and copyright owners. The more resources devoted to this process and the more centralized it is, the more efficient

and successful will be the defense for the institutions in copyright and intellectual policy issues.

A second theory, developed by California State University (1997) noted the following:

> Copyright and intellectual property issues will increasingly affect the future of American higher education. The effectiveness of higher education requires a better understanding of how ownership rights associated with new intellectual property promote the mutual benefit of faculty, staff, students and their learning communities" (p. 4).

By fall 1995, over one third of all higher education institutions in the U.S. offered distance education courses, and another large number of institutions were in planning phases to offer distance education courses in the future (NCES, 1997). Additionally, over one third of the institutions that offered distance education courses in 1995 had established a separate distance education department (NCES, 1997). It has been estimated that, by 1998, over 35,000 courses were offered by institutions via distance education and Internet-based training, exclusively; more courses were offered only through the Internet (Peters, 1999). Institutions face more challenges in the era of electronic copyright and intellectual property than they have in the past according to Diotelevi (1998), "There will be many issues of law for the courts to feed upon as a result of our advancing technological capabilities in the future" (p. 14).

Copyright and Intellectual Property

The rapid expansion of communication technologies has been accompanied by a growing concern among higher education leaders in the areas of copyright and intellectual property rights. With the ease of obtaining words, pictures, and other data quickly from the Internet, viewers can download, cut, and paste data to complete projects. The copyright nature of the electronic data is of serious concern.

> Educators must demand that effective policies be developed in the areas of copyright, fair use, duplication and revenue generation for print and non-print educational materials. These policies must address the needs of both the copyright holder and the end user. (Dillon & Cintron, 1997, p. 89)

Copyright law was addressed by James Madison and the framers of the U.S. Constitution (Diotalevi, 1998) and is addressed in Article 1, Section 8, clause 8, in order to "promote the progress of science and the useful arts" by securing exclusive right to the creative product. Why should higher education institutions be more concerned about copyright and intellectual property with the era of distance education and Internet-based training?

> The current status of the law regarding the liability of entities like universities that provide the kinds of services to our communities that we do (Internet access and publishing capability) indicates that we can be held liable for infringements of faculty and staff, and perhaps even students. (Harper, 1999, p. 24).

The first higher education copyright case resulting in a judicial opinion is Basic Books v. Kinko's Graphics Corp. (1991). A copyright infringement action was brought against a chain of copy shops by publishers, based on the publishers' assertions that the copy shops were copying excerpts from their books without permission and selling the items to college students as coursepacks (Kaplin & Lee, 1997). The copy shop employed the "fair use" doctrine as its defense. The Court found for the plaintiffs and awarded $510,000 in statutory damages as well as legal fees. The copy shop did not appeal and agreed to settle the case during October 1991 for $1.875 million, which included damages and legal fees. Based upon its interpretation of the "fair use" doctrine, the Court made the following rulings:

1. Kinko's was merely repackaging the material for its own commercial purposes.
2. The material in the books was factual.
3. Kinko's had copied a substantial proportion of the work, and whether the book was out of print or not was irrelevant because copyright fees are the only profits available to the publisher once the book is unavailable. The court also found that even one chapter is a substantial portion if that chapter is meant to stand alone.
4. Kinko's copying reduced the market for the textbooks. (Kaplin & Lee, 1997, pp. 140-145)

The U. S. Copyright Act of 1978 provides for five protections (Diotelevi, 1998), including (a) reproduction of the copyrighted work, (b) preparation of derivative works

based upon the copyrighted material, (c) distribution of the work, (d) performance of the work publicly, and (e) displaying of the work publicly. Fair use is an exception to normal copyright requirements, which have been utilized in higher education. According to Diotelevi, the law considers four factors in determining if fair use is applicable as a defense: (a) the purpose and character of the use, including whether use is of a commercial nature or is for nonprofit educational purposes; (b) the nature of the copyrighted work; (c) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and (d) the effect of the use upon the potential market for or value of the copyrighted work.

The Digital Millennium Copyright Act, a bill signed by President Clinton on October 28, 1998, provides some new rules for treatment and respect of internet-based copyrighted material. "This bill will extend the intellectual protection into the digital era while preserving fair use and limiting infringement liability for providers of basic communication services."(Statement by the President, Office of the President's Secretary, The White House, and October 12, 1998). This act has provisions that some authors believe will hinder the fair use doctrine (Diotalevi, 1998) and make it more difficult for institutions to develop effective policies for Internet-based copyright and intellectual property issues.

Legal case histories, including those related to coursepacks and copyright issues in higher education, are in the infancy stages. Princeton University Press v. Michigan Document Services (1996) affirmed the requirement for copy services centers to request and pay a permission fee prior to duplicating copyrighted material for university coursepacks. The need for quick access to data for Internet courses is

compounded by the time it may take to obtain copyright releases from authors (Miller, 1997, p.555). The ease of downloading and cut/pasting copyrighted data prior to obtaining approvals is enhanced with the Internet, therefore creating a higher level of risk for institutions that do not have effective copyright and intellectual property policies in place.

An often-overlooked factor in distance education has been the role of the faculty who teach these courses over the Internet. California State University (1999) as well as other institutions of higher education, is beginning to take steps to reward distance education faculty with monetary incentives to teach these courses and more equitable agreements for the intellectual property that may be developed by the faculty member to teach the Internet-based course. California State University (1999) outlined the issue of faculty incentives and intellectual property as follows:

> The copyright decisions of faculty members, in particular, too often ignore complex nuances associated with copyright. Promotion and tenure policies within universities often encourage faculty to emphasize the quest for publication without focusing directly on optimal access to new works for the advancement of learning. Too often copyright is assigned to the publishers without the author's having reserved rights to future uses.(California State University, 1997, p. 15)

Additionally, in a study by Wolcott (1997), the findings pointed to the marginal status that distance teaching has among faculty due to the low value placed upon distance teaching within the framework of scholarship, promotion, and tenure. The need to overhaul the intellectual property policy, as well as the faculty incentives to teach distance education courses was discovered in this study.

Research conducted by Olcott and Wright (1995) found that the "team approach to designing distance instruction may undermine the faculty member's autonomy and control of the curriculum"(p. 14). Other impediments to the faculty member's role in distance education were found to be directly related to the manner in which institutions and academic departments prioritize distance teaching. Teaching load, monetary incentives, course preparation support, intellectual property rights, and training for use of the new technology were factors identified as barriers to faculty participation in distance education that require institutional leadership to meld the traditional academic practice with the changing educational technology.

Joint Projects and Antitrust Implications

The proliferation of Internet-based training has led to more joint projects among higher education institutions, as well the development of alliances between higher education institutions and outside business concerns to develop training courseware, software, and hardware related to Internet-based training. The literature in this area points to the expanding opportunities that higher education institutions will gain by collaborating with other institutions and outside concerns to take advantage of the internet growth cycle. The literature does not readily identify the potential antitrust litigation that institutions could face if their actions inhibit the free and open market (Smith, 1999). The Primary Research Group (1998) conducted a survey of distance learning in higher education and found that 23.3% of colleges with established distance education programs attempt to sell or license distance learning services to other

organizations. Also, 5% of colleges with established distance education programs have sold a distance education course to an organization in a developing country. Smith found that approximately 10% of public institutions and 3% of private institutions in the U.S. had developed written policies to address antitrust litigation risk.

The literature often highlights the economic growth potential for higher education to establish collaborative agreements with other institutions and outside concerns for Internet based training opportunity, but it does not adequately address the potential business perils.

Norris and Olson(1997) observed that, "to reap the opportunities arising from Knowledge-Age Learning, colleges and universities … need to forge powerful new alliances with other colleges and universities, new learning intermediaries, technology and entertainment companies, commercial learning agent enterprises, professional associations and other organizations"(p. 44). The authors also advised that institutions should develop more outsourcing relationships, including "relationships more like co-sourcing or re-sourcing than our traditional concept of outsourcing"(p. 43). With these new relationships and opportunities to share information with other institutions, the risk for antitrust litigation has increased, yet the authors did not refer to this potential problem.

Lee and Marsh (1998) also indicated that institutions of higher education should collaborate with outside concerns to solve technical problems relating to distance education and Internet technology. Challenges identified in these collaborations include the obvious cultural differences between nonprofit higher education institutions and the private business sector, which thrives on the profit motive.

Barton and Cartwright(1997) addressed personnel, cultural, and legal issues involved with higher education/business partnerships. However, the legal issues discussed fall short of antitrust risks, as the authors mentioned only copyright issues.

Higher education institutions that are involved in any type of joint ventures or collaboration and/or information-sharing arrangements with other institutions of higher education or businesses may need to consider development of an antitrust policy to guide administrators and personnel in the most effective way to avoid antitrust litigation (Carlson et al., 1992).

Costs of Higher Education

While the number of college and university students has grown from 1980 to 1999 by about 20 percent, the money spent by students for their education has grown more than twice as fast (Eddy, 1999). Thus, the economic efficiency has declined while the consumption of higher education by students has grown. The average cost of educating a student for a year at an institution of higher education has increased from $7,400 in 1980 to $10,600 in 1995, adjusted for inflation (Gubernick & Ebeling, 1997). The distance education costs via Internet-based training are usually less than traditional degree programs.

Recent Survey Data and Other Cases

Two recent distance education surveys and a publication from a 1999 conference on distance teaching and learning were reviewed. These publications provide applicable

data for this study for trends in distance learning as well as policy matters applicable to copyright, intellectual property and information sharing/antitrust issues.

The Survey of Distance Learning Programs in Higher Education(1997) was compiled by the Primary Research Group and was based on a survey of forty-four college distance education programs. The survey was sent to institutions with existing distance education programs, "not from the overall universe of American colleges and universities. Primary Research suspects that a survey drawn from this universe would show that many colleges are now in the planning stages of developing distance education programs"(Primary Research, p. 20). Major findings from the study include the following:

"Ninety-five percent of the colleges with an established distance education program plan to expand the program."(p. 18)

"Forty-four percent of colleges with an established distance education program offer a full degree program through distance education."(p. 18)

"Twenty-three percent of colleges with established distance education programs attempt to sell or license distance learning services to other organizations."(p. 18)

"Five percent of colleges with established distance education programs have sold a distance education course to an organization in a developing country."(p. 18)

"Forty-two percent of colleges with established distance education programs compensate instructors for course development on a regular basis; forty-seven percent do not. Ten percent of colleges with established distance education programs sometimes compensate distance education instructors for course development."(p. 18)

"In sixty-six percent of colleges with an established distance education program, the teaching load of a distance education instructor is the same as that of a traditional classroom instructor. It is higher than that of a traditional classroom instructor in twenty-four percent of colleges and lower in only ten percent of colleges."(p. 22)

"Sixteen percent of the institutions utilized a centralized distance education facility and/or faculty to develop distance education courses, fourteen percent purchased courses from outside source."(p. 24)

Distance Education in Higher Education Institutions (National Center for Education Statistics, 1998) provided nationally representative data about distance education course offerings and other related information. The data represented the academic year 1994-95 and this was the first such study to cover this topic on a national basis. A summary of the pertinent findings include the following:

"Thirty-three percent of the institutions offered distance education courses in fall 1995, another twenty-five percent planned to offer such courses in the next three years."(p. 14)

"Fifty-eight percent of public 2-year and sixty-two percent of public 4-year institutions offered distance education courses, compared with two percent of private 2-year and twelve percent of private 4-year institutions. The percentage of institutions offering distance education courses also varied by institutional size and geographic region, with fewer small institutions and fewer institutions in the Northeast offering distance education."(p. 16)

"Thirty-six percent of higher education institutions offering distance education courses in fall 1995 had a separate distance education department or office. Large institutions were likely to have such a department or office."(p. 18)

"Seventy-five percent of the higher education institutions that offered distance education courses in fall 1995 used distance education course curricula developed by the institution's subject area department or schools. More public and private 4-year than public 2-year institutions used courses developed by the institution's subject area departments or schools."(p. 20)

"Legal concerns(e.g. intellectual property rights, copyright laws) were concerns in forty-three percent of the institutions in starting or expanding their distance education course offerings."(p. 29)

"Thirty-six percent of all institutions, including forty-percent of public 4-year and thirty-three percent of private 4-year institutions currently offering distance education courses have a separate distance education department/office."(p.42)

According to Price(1996), higher education institutions may face potential litigation liability as Internet Service Providers through direct liability for copyright infringement and through third party liability, based on analysis of recent legal case history. As an Internet Service Provider, the institution may offer Internet access to students, faculty and staff.

In Religious Technology Center v. Netcom On-Line Communication Services, Inc.(1995), the case involves intellectual property rights and the Internet and addresses whether the operator of an Internet computer bulletin board service should be liable for copyright infringement committed by its customer. The plaintiffs, Religious Technology

Center and Bridge Publications held copyrights in the published works of L. Ron Hubbard, late founder of the Church of Scientology. The defendant, Dennis Erlich, was charged with posting portions of Hubbard's works on the Internet through defendant Thomas Klemesrud's Internet computer bulletin board. Klemesrud gained access to the Internet through Netcom On-Line Communications, Inc., one of the largest Internet access providers in the U.S. at the time. Netcom argued that it did not directly infringe on the copyrights, it merely provided a system for communication. The Court viewed Netcom's service as similar to that of an owner of a public copying machine. Although some people may directly infringe by making unauthorized copies of copyrighted material on the machine, the owner's liability would not necessarily be direct infringement. In this case, the Court found that Nectom On-Line Communications was not liable for copies that are made and stored on its computer by third party users. Two other issues were considered in the case, including contributory infringement and vicarious liability. As outlined in the case, the Court found that that plaintiffs did not meet the burden of proof in the direct infringement claim. The Court indicated that the claim of contributory infringement was viable, but that neither Netcom or Klemesrud could be held responsible for the third party action of Elrich since neither Netcom or Klemesrud were notified of the infringement until after all but one of the postings were completed.

> The absence of such express language in the copyright statue does not preclude the imposition of liability for copyright infringement on certain parties who have not themselves engaged in the infringing activity. For vicarious liability is imposed in virtually all areas of the law, and the concept of contributory

infringement is merely a species of the broader problem of identifying the circumstances in which it is just to hold one individual accountable for the actions of another (p. 1370-1382).

In Princeton University Press v. Michigan Document Services (1996), the plaintiff argued that the defendant prepared and sold copies copyrighted anthologies, bundled together and sold as "coursepacks" in violation of U.S. copyright laws. As many as 25,000 "coursepacks" for up to 700 different courses may have been sold during this endeavor. The Court found that Michigan Document Services infringed on the copyright protection of the works by not seeking permission from the copyright holds and paying a reasonable fee to the holders for the right to make copies. The factors reviewed by the Court included (a) purpose and character of use, (b) amount and substantiality of portion used, and (c) effect on the use upon market potential.

The Court found that Michigan Document Services knowingly infringed upon the copyrighted material and had intentions of continuing this action for profit motives:

> Substantial damages do appear necessary to deter defendant' future conduct, particularly as they argue to this court that if injunctive relief is granted, it should be limited to the specific publishers involved in this matter and the noted or specifically identified copyrighted works. This evidences an intent on the part of the defendants to continue their present course of conduct and to shift to the plaintiffs the burden of seeking relief in court every time defendants choose to do so. It is the responsibility of the defendants to obey the law. As they are enjoying a substantial profit at the expense of others, they will continue to do so without a strong

> admonition from this court. Statutory damages therefore are awarded in the amount of $5,000 per infringed work for a total of $30,000 (p. 1398).

A review applicable presentations from the proceedings from the 15th Annual Conference on Distance Teaching and Learning(King, Nugent, Russell,& Lacy, 1999) was conducted to evaluate copyright and intellectual property policy approaches. A survey of post-secondary institutions in Nebraska was conducted to find out what distance education policies existed. In their review of distance education legal policies, relative to intellectual property, faculty, student and institutional liability, King et al. found a lack of policy development in this area, "Distance education practice is indeed ahead of policy development…there are few policies overall dealing with legal and cultural issues"(p. 278).

CHAPTER 4

METHODOLOGY

An evaluation of the current status of distance education and Internet-based training in higher education is necessary to discover findings that provide insight to the questions raised in the problem statement. Will distance education and technology-based training systems offered by higher education institutions differ based upon the public/private control of the institution and its Carnegie Classification? In the past, private institutions have worked with some issues, such as federal antitrust legislation, in a manner different from that used by public institutions due to the potential immunity public institutions had prior to the Marjorie Webster Junior College (1970) decision. The mission of an institution, as defined by its Carnegie Classification, may have an impact on its development and implementation of policies toward the risks outlined in distance education and Internet-based training (Dillon & Cintron, 1997; California State University, 1997).

The case study research methodology was utilized for this study. Yin (1994) points to several factors that make the case study methodology applicable to this research, including the following:

1. The case study investigates a contemporary phenomenon in its current environment.
2. The case study benefits from the prior development of theoretical propositions to guide data collection and analysis.

3. The case study relies on multiple sources of evidence, with data needing to converge in a comparative fashion, and as another result.(P. 13)

For Item 1 (The case study investigates a contemporary phenomenon within its current environment.), distance education and technology-based training are relatively new phenomenon for higher education institutions. Internet-based instruction poses several potential business risks at levels to which institutions have not been exposed in the past. For example, many institutions were exposed to copyright issues and developed policies applicable to the pre-electronic era (Peters, 1999, p.54). However, the full impact of what needs to be done to protect an institution in Internet-based copyright issues is an emerging new area of concern.

For Item 2 (The case study benefits from the prior development of theoretical propositions to guide data collection and analysis.), recent research has been conducted in a related field of interest (Smith, 1999). The antitrust study and its implications in the distance education policy field are considered the pilot study from which this case study evolved. This study sought several sources of data to supplement and build upon the prior study. Item 3 (The case study relies on multiple sources of evidence, with data needing to converge in a comparative fashion, and as another result.), requires multiple data sources. This study used several sources of data; including the institutions' Internet Web site, legal case history, and patterns found therein, as well as distance education surveys and symposium records.

A case study database was created to organize and clearly document the data reviewed for this study. Data were be collected in two phases. Phase A included an Internet Web site survey of the Research I&II, Doctorate I&II, and Master's I&II

institutions that responded to the survey in the pilot study. The survey focused on copyright, intellectual property and antitrust policies as posted on the institutions' Web pages. Phase B utilized a case study/benchmarking approach to analyze the policies implemented by the leading institutions in America, as identified by expert analysis related in the literature and Peterson's (1998) Guide to Distance Learning and the ranking of the institutions based on enrollment and number of courses offered. Ten of the top 30 institutions were evaluated; however, the data and identification of institutions remained anonymous. Phase C included analysis of data from distance education surveys and selected distance education symposium notes in order to find policy-related data for copyright, intellectual property, and information-sharing issues in Internet-based distance education. Phase C data is included in the literature review and incorporated, as applicable, into the findings.

Phase A: Overview of Sample Institutions

The institutions reviewed for phase A were based on the results and analysis of the pilot study. Data evaluated from the institutions' Web sites and published catalogs included the following: (a) accredited distance education courses and degrees offered; (b) policies relating to copyright, intellectual property, and antitrust posted on the Web site; (c) evidence of written policy toward antitrust issues as provided in the pilot study; (d) Carnegie Classification of the institution; and (e) control of the institution (public or private).

Based upon the pilot study data (Smith, 1999), Research I&II, Doctorate I &II, and Master's I&II were reviewed in this area of the study. This included 77 institutions.

The rationale for this was based upon the responses analyzed in the pilot study and the leadership value of the Research I&II, Doctorate I&II and Masters I&II responses (Spendolini, 1992). Sixteen percent of the Research I&II/Doctorate I&II institutions reported that their institutions had developed a written antitrust policy, the next highest category was 7%(Master's I&II). Additionally, 45% of the Research I&II/Doctorate I&II institutions indicated that they were proactive in dealing with antitrust issues; the next highest category was 37%(Master's).

Phase B- Best Practices Case Study

Additionally, for Phase B, experts in the field of distance education, based upon the literature review, collaborative analysis and objective measures, including distance education enrollment and course offerings, were utilized to identify the top 30 institutions that have addressed these risks. Peterson's (1998) Guide to Distance Education and the rankings form the basis for selection of the institutions. Ten of the top 30 were selected, with their identity remaining anonymous. A multiple case design was used to obtain a comparative analysis of the policy approaches of these top institutions. "The evidence from multiple cases is often considered more compelling, and the overall study is therefore regarded as being more robust" (Yin, 1994 p. 38).

These 10 institutions were reviewed to obtain benchmarking comparisons. According to Spendolini(1992), benchmarking is a "continuous, systematic process for evaluating the products, services, and work processes of organizations that are recognized as representing best practices for the purposes of organizational improvement" (p. 44). This benchmarking process followed several models (Spendolini, 1992; Capezio and

Morehouse, 1992). These models provided for a systematic collection of data by case to ensure consistency across the cases. The data collected included the following: (a) comparison of intellectual property policy approach; (b) comparison of copyright policy approach; (c) comparison of policy approach relating to information sharing and joint projects with outside concerns; (d) Carnegie Classification of the institution; (e) public/private control of the institution; (f) number of distance education courses offered; (g) number of students enrolled in distance education courses; (h) number of faculty members assigned; (I) incentives provided to faculty members who teach in distance education programs; and (j) evidence of joint projects or collaboration with outside concerns in distance education course development and transmission.

The checklist outlined in the appendix was utilized as the basis for collecting these data.

The benchmarking case study data were derived from the 10 institutions' Web sites as well as an informational survey sent to the director of distance education programs at each institution. All institutions identified for the case study are considered leaders in the field, based upon the number of students enrolled in distance education courses, and number of courses offered. The selection was based upon expert analysis and the literature review, which mentioned these institutions(Burgess, 1997; Moore,1990; Thorson, 1998). These institutions are considered as the leading institutions in terms of policy approaches relating to intellectual property and copyright issues in Internet-based training (Colyer, 1997). Additionally, Peterson's (1998) Guide to Distance Learning included a comprehensive list of all institutions in the U.S. that offered distance learning courses. The list included 900 institutions, and a summary of all

institutions was conducted to derive the top 30 based upon distance education enrollment and course offerings. This study has endeavored to obtain the most recent data available prior to final publication, and the list may change based on availability of data.

Table 4 includes the list of the top 30 accredited institutions in the U.S. as well as the enrollment figures and distance education course offerings (Peterson's, 1998; Rodenhouse, 1997;Thorson, 1998). Statewide systems are not included as one institution in this study.

Table 4
Case Study Candidate Institutions' 1997-98 Distance Education Enrollment and Course Offerings

	Institution	City	State	Number courses	Distance Enrollment
1	American College	Bryn Mawr	PA	49	18415
2	Regents College	Albany	NY	40	17358
3	University of Texas	Austin	TX	195	15859
4	Penn State	University Park	PA	450	12500
5	Berean Un. Of Assembly	Springfield	MO	139	12000
6	ICI	Irving	TX	110	8500
7	Indiana University	Bloomington	IN	357	8497
8	St. Leo College	Saint Leo	FL	16	8180
9	University of Florida	Gainesville	FL	284	4600
10	University of Minnesota	Minneapolis	MN	320	4000
11	University of Missouri	Columbia	MS	190	4000
12	St. Josephs College	Standish	ME	185	4000
13	University of Phoenix	Phoenix	AZ	120	4000
14	Ohio University	Athens	OH	300	3925
15	University of Maryland	College Park	MD	342	3902
16	University of Georgia	Athens	GA	145	3657
17	University of Wisconsin System	Madison	WI	500	3650
18	University of Alabama	Tuscaloosa	AL	300	3500
19	Portland State	Portland	OR	150	3500
20	Old Dominion	Norfolk	VA	200	3200
21	University of South Carolina	Columbia	SC	215	3000
22	University of California	Berkeley	CA	150	3000
23	University of Tennessee	Knoxville	TN	155	2600
24	University of Illinois	Urbana	IL	175	2500
25	University of North Carolina	Chapel Hill	NC	150	2500
26	University of Washington	Bellevue	WA	120	2500
27	University of Nevada	Reno	NV	110	2500
28	University of Central Arkansas	Conway	AR	85	2500
29	University of Alaska	Fairbanks	AK	200	2385
30	University of Kansas	Lawrence	KS	142	2300

Phase C: Additional Data Analysis

Data to be evaluated from distance education surveys and symposium notes include (a) issues related to copyright and intellectual property for distance education policies; (b) issues related to information sharing and joint projects with outside concerns in distance education course development and transmission; and (c) issues related to information sharing and joint projects with outside concerns in distance education course development and transmission. Data to be evaluated from specific legal cases, which are applicable to this study, include (a) plaintiff's charge and underlying legal issue related to copyright, intellectual property, and information sharing; (b) court's analysis of the data and review of policy applications; and (c) institutions' position and argument as it relates to policy in the area of copyright, intellectual property, and /or information sharing. This data is included in the literature review section of this study and it will be incorporated into the findings where applicable.

Validity and Reliability

In case study methodology, validity and reliability should be addressed (Feagin, Orum & Sjoberg, 1991) "Reliability is usually interpreted as the ability to replicate the original study using the same research instrument and to get the same results"(p. 17). In this study, 87 higher education institutions were evaluated based upon their distance

education offerings and policy approaches related to the Internet copyright and intellectual property associated with distance education. The search of Web sites followed the same pattern over that same period of time. According to Feagin et al., "This satisfies the need to create a subjective and comparative basis for observations and thereby helps insure that observations will be roughly identical from one observer to the next" (p.18).

For observation validity, the use of multiple sources to match and compare data provided an adequate crosscheck and thereby validated observations as well as claims based on those observations (Feagin et al., 1991, p.19).

Data Analysis

For both Phases A and B, descriptive statistical data, including frequencies and percentages, were be used to categorize the findings by Public/Private Control and by Carnegie Classification. Patterns and trends were investigated in accordance with the data reduction method (Miles & Huberman, 1988), and through pattern matching (Yin, 1994). In the data reduction method, observed data were recorded in a data matrix format. Comparative data were available to assist in identifying the themes, trends, and patterns of differences and similarities between the sample institutions and the case study institutions. The techniques suggested by Miles and Huberman that were utilized include (a) making a matrix of categories and placing the evidence within such categories, (b) tabulating the frequency of different events, and (c) putting the information in chronological order.

In pattern matching, the study collected data from the institutions' Web sites, the legal case histories, and the distance education surveys and symposiums to report differences in policy approaches toward copyright and intellectual property in Internet-based training. It identified the practices of the top institutions in the distance education field.

> For case study analysis, one of the most desirable strategies is to use a pattern-matching logic. Such logic compares an empirically based pattern with a predicted one (or with several alternative predictions). If the patterns coincide, the results can help a case study strengthen its internal validity"(Yin, 1994, p. 54).

Research Questions

Based upon the collection and analysis of data, this study attempted to review and provide answers to the following questions:

1. In distance and technology-based training, does institutional policy toward Internet-related copyright issues differ based upon the public/private control of an institution?
2. In distance and technology-based training does institutional policy toward Internet-related intellectual property ownership differ based upon the public/private control of an institution?

3. In distance and technology-based training does institutional policy toward Internet-related course material and licensing issues differ based upon the public/private control of an institution?
4. In distance and technology-based training does institutional policy toward commercially-related information sharing with other institutions differ based upon the public/private control of an institution?
5. In distance and technology-based training does institutional policy toward Internet-related copyright issues differ based upon the Carnegie Classification of the institution?
6. In distance and technology-based training does institutional policy toward Internet-related intellectual property ownership differ based upon the Carnegie Classification of the institution?
7. In distance and technology-based training does institutional policy toward Internet-related course material and licensing issues differ based upon the public/private control of an institution?
8. In distance and technology-based training does institutional policy toward commercially-related information sharing with other institutions of higher education differ based upon the Carnegie Classification of the institution?
9. What are the attributes of institutions that offer distance education and publish applicable policies on the Web?

10. How have institutions adopted policies developed to handle print media copyright and intellectual property issues in the new age of Internet technology and the fair use doctrine?

11. What are the best practices of institutions engaged in Internet-based distance education for preventing adverse legal actions in Internet-based training areas of copyright, intellectual property and information sharing?

CHAPTER 5

FINDINGS

The findings are presented in two phases: Phase A-- Overview of Sample Institutions and Phase B- Best Practices Multiple Case Study. Additional data, Phase C, is included in the survey review section of the literature review.. The findings as they pertain to the research questions are discussed at the conclusion of this chapter.

Phase A—Overview of Sample Institutions

The sample institutions include a total of 77 respondents to the pilot study survey. Fourteen are Research I&II institutions, 17 are Doctorate I&II and 46 are Master's I&II. Fifty institutions are public, and 27 are private. A review of the institutions' Internet Web site and catalog/bulletin was conducted between August 3, 1999 and September 21, 1999 to gain an understanding of the status of distance education policy approaches for copyright and intellectual property in accredited American higher education institutions. This review also served to provide comparative information concerning the growth of distance education, as outlined by the National Center for Education Statistics(NCES, 1997).

Region and Carnegie Classification to maintain anonymity identify the institutions. A "1" in the data area for each institution indicates that positive evidence

was available and reportable from the institution's Web site or catalog. An "0" indicates that evidence was not available on the institution's Internet Web site or catalog.

Sixty-six percent of all institutions reviewed offered at least one Internet-based distance education course. Twenty-three percent offered baccalaureate degrees through distance education and, 34% offered master's degrees, and 8% offered associates degrees. Forty-five percent offered courses in business; 51% in the social sciences; 38% in education; fourteen percent in engineering; 25% in fine arts; and 13% in others. Regarding policies published on their Internet Web site, 13% published copyright polices and 22% percent published intellectual property rights polices on their Internet Web site. None of the institutions published policies on their Internet Web sites relating to antitrust or information sharing. Based upon responses to the pilot study, 10% of the institutions have a written internal policy toward antitrust or information sharing with outside concerns. According to the NCES (1997), 33% percent of all American higher education institutions offered distance education courses by the fall of 1995; it was reported that approximately 25% planned to offer distance education courses by 1998, whereas 42% did not plan to offer distance education courses by 1998. Based on the data collected from the pilot study, 66% of all institutions (Research I&II, Doctorate I&II, and Master's I&II) offered some form of distance education by 1998, compared to the NCES (1997) estimate of 58%.

Table 5 includes a summary of public institutional degree offerings, a total of 50 institutions were reviewed. Eighty percent of public institutions offered some type of distance training for accredited coursework. Twelve percent offered associates degrees, 36% offered baccalaureate degrees, and 40% offered master's degrees. Six percent of the

public institutions offered other degrees, including the doctoral degree, via Internet-based training.

Table 5

Totals By Public Institution-- Distance Degrees Offered

	Carnegie	Distance	Distance Degrees Offered			
Region	Class	Courses	Associates	Baccalaureate	Masters	Other
1	Res I&II	2	1	0	1	0
3	Res I&II	9	3	7	5	3
4	Res I&II	1	0	1	1	0
3	Doc I&II	2	0	0	0	0
4	Doc I&II	4	1	2	3	0
5	Doc I&II	5	0	3	2	0
2	Master's I&II	1	0	0	0	0
3	Master's I&II	5	1	2	4	0
4	Master's I&II	2	0	0	1	0
5	Master's I&II	9	0	3	3	0
	Total	40	6	18	20	3
	Pct.	80%	12%	36%	40%	6%

Table 6 includes a summary of public institutional accredited distance education course offerings, a total of 50 institutions were reviewed. Seventy-four percent offered courses in the social sciences, 60% business; 52% education; 18% engineering; and 28% fine arts. Sixteen percent offered other courses, including life sciences.

Table 6

Totals by Public Institutions--Accredited Distance Courses Offered

	Carnegie		Social				
Region	Class	Business	Sciences	Education	Engineering	Fine Arts	Other
1	Res I&II	2	2	1	1	1	0
3	Res I&II	8	9	8	4	7	5
4	Res I&II	1	1	1	1	0	0
3	Doc I&II	2	1	0	1	0	1
4	Doc I&II	3	4	3	0	2	1
5	Doc I&II	3	5	3	0	0	1
2	Master's I&II	1	0	0	0	0	0
3	Master's I&II	5	4	4	0	2	0
4	Master's I&II	1	2	1	0	0	0
5	Master's I&II	4	9	5	2	2	0
	Total	30	37	26	9	14	8
	Pct.	60%	74%	52%	18%	28%	16%

Table 7 provides a summary of public institutional policies, a total of 50 institutions were reviewed. Twenty-six percent published copyright, and 24% published intellectual property policies. None published information-sharing policy on their Internet Web sites. Fourteen percent reported that their institutions had developed a written antitrust policy.

Table 7

Public Institution Policies

	Carnegie	Web based policies			
Region	Class	Copyright	Intellectual prop.	Info. sharing	Antitrust policy
1	Res I&II	1	1	0	0
3	Res I&II	4	4	0	2
4	Doc I&II	4	4	0	2
1	Master's I&II	0	0	0	1
3	Master's I&II	1	0	0	1
4	Master's I&II	1	1	0	1
5	Master's I&II	2	2	0	0
	Total	13	12	0	7
	Pct.	26%	24%	0%	14%

Table 8 includes a summary of private institutions for degrees offered via distance education, a total of 27 institutions were reviewed. Forty-one percent of the private institutions offered distance education courses in 1998, compared to 12% in 1995(NCES, 1997).

Twenty-two percent of the private institutions offered a master's degree through distance education. No other distance-based degrees were offered by private institutions evaluated in this study.

Table 8

Totals by Private Institution-- Distance Degrees Offered

	Carnegie	Distance	Distance Degrees Offered			
Region	Class	Courses	Associates	Baccalaureate	Masters	Other
3	Res I&II	1	0	0	1	0
5	Res I&II	1	0	0	1	0
2	Doc I&II	1	0	0	1	0
3	Doc I&II	2	0	0	1	0
5	Doc I&II	1	0	0	1	0
3	Master's I&II	2	0	0	0	0
4	Master's I&II	1	0	0	0	0
5	Master's I&II	2	0	0	1	0
	Total	11	0	0	6	0
	Pct.	41%	0%	0%	22%	0%

Table 9 provides a summary of distance education courses offered by private institutions, a total of 27 institutions were reviewed. Nineteen percent offered business and fine arts courses; 11% education courses; and 7% offered social sciences, engineering, or other courses.

Table 9

Totals by Private Institution—Accredited Distance Courses Offered

	Carnegie		Social				
Region	Class	Business	Sciences	Education	Engineering	Fine Arts	Other
3	Res I&II	1	0	0	0	0	0
5	Res I&II	0	0	0	0	0	1
2	Doc I&II	1	0	0	1	0	0
3	Doc I&II	2	1	0	1	1	0
5	Doc I&II	1	1	1	0	1	0
3	Master's I&II	0	0	1	0	1	1
4	Master's I&II	0	0	0	0	1	0
5	Master's I&II	0	0	1	0	1	0
	Total	5	2	3	2	5	2
	Pct.	19%	7%	11%	7%	19%	7%

Table 10 provides a summary of private institution policy related to copyright, intellectual property, information sharing and antitrust. A total of 27 institutions were

reviewed. For polices published on the institutions' Internet Web site, 15% published copyright polices, 19% published intellectual property policies, and none published policies related to information sharing with outside concerns. Fourteen percent of the private institutions had developed some form of written policy for antitrust issues.

Table 10

Private Institution Policies

	Carnegie	Web based policies			
Region	Class	Copyright	Intellectual prop.	Info. sharing	Antitrust policy
3	Res I&II	1	1	0	0
5	Res I&II	0	1	0	0
2	Doc I&II	1	1	0	0
3	Doc I&II	1	1	0	1
5	Doc I&II	1	1	0	0
	Total	4	5	0	1
	Pct.	15%	19%	0%	4%

Table 11 provides the totals by Research I&II institution for distance degrees offered. A total of 14 institutions were reviewed. All of the Research I&II institutions offered accredited distance education courses. Sixty-four percent offered master's degrees via distance education; 57% bachelor's degrees; 29% associate degrees; and 21% other, including doctoral degrees.

Table 11

Totals by Research I&II Institution-- Distance Degrees Offered

		Distance	Distance Degrees Offered			
Region	Control	Courses	Associates	Baccalaureate	Masters	Other
1	Public	2	1	0	1	0
3	Public	9	3	7	5	3
4	Public	1	0	1	1	0
3	Private	1	0	0	1	0
5	Private	1	0	0	1	0
	Total	14	4	8	9	3
	Pct.	100%	29%	57%	64%	21%

Table 12 provides a summary of distance courses offered by Research I&II institutions. A total of 14 institutions were reviewed. Eighty-six percent offered business and social science; 71% education; 57% fine arts; 43% engineering; and 43% percent other.

Table 12

Totals by Research I &II Institution-- Accredited Distance Courses

		Social				
Region	Business	Sciences	Education	Engineering	Fine Arts	Other
1	2	2	1	1	1	0
3	9	9	8	4	7	5
4	1	1	1	1	0	0
5	0	0	0	0	0	1
Total	12	12	10	6	8	6
Pct.	86%	86%	71%	43%	57%	43%

Table 13 provides a summary of policies toward copyright, intellectual property and information sharing by Research I&II institution. A total of 14 institutions were reviewed. Forty-three percent published copyright polices on their Internet Web site, and 50% published intellectual property polices. None published policies relating to information sharing with outside concerns. Fourteen percent had developed a written policy toward antitrust issues.

Table 13

Totals by Research I&II Institution--Policies

	Web based policies			
Region	Copyright	Intellectual prop.	Info. sharing	Antitrust policy
1	1	1	0	0
3	5	5	0	2
5	0	1	0	0
Total	6	7	0	2
Pct.	43%	50%	0%	14%

Table 14 includes a summary of distance degrees offered by Doctorate I&II institutions. Seventeen institutions were included in this review. Eighty-eight percent of these institutions offered distance education courses. Forty-seven percent offered master's degrees; 29% baccalaureate degrees; and 6% associate degrees.

Table 14

Totals by Doctorate I&II Institution- Distance Degrees Offered

		Distance	Distance Degrees Offered			
Region	Control	Courses	Associates	Baccalaureate	Masters	Other
3	Public	2	0	0	0	0
4	Public	4	1	2	2	0
5	Public	5	0	3	2	0
2	Private	1	0	0	1	0
3	Private	2	0	0	2	0
5	Private	1	0	0	1	0
	Total	15	1	5	8	0
	Pct.	88%	6%	29%	47%	0%

Table 15 provides a summary of accredited distance education courses offered by Doctorate I&II institutions. Seventeen institutions were included in this review. Seventy-one percent of the institutions offered business and social science courses; 41% percent education; 24% percent fine arts; and 18% engineering and other.

Table 15

Totals by Doctorate I&II Institution-- Accredited Distance Courses

		Social				
Region	Business	Sciences	Education	Engineering	Fine Arts	Other
2	1	0	0	1	1	0
3	4	2	0	1	1	1
4	3	4	3	0	1	1
5	4	6	4	1	1	1
Total	12	12	7	3	4	3
Pct.	71%	71%	41%	18%	24%	18%

Table 16 includes a summary of copyright, intellectual property, and information-sharing polices by Doctorate I&II institutions. Seventeen institutions were included in this review. Forty-one percent published copyright and intellectual property polices on their Internet Web site. None published policies related to information sharing with outside concerns on their Internet Web site. Eighteen percent had developed a written policy toward antitrust issues.

Table 16

Totals by Doctorate I&II Institution-- Policies

	Web based policies			
Region	Copyright	Intellectual prop.	Info. sharing	Antitrust policy
2	1	1	0	0
3	1	1	0	1
4	4	4	0	2
5	1	1	0	0
Total	7	7	0	3
Pct.	41%	41%	0%	18%

Table 17 provides a summary of distance degrees offered by master's I&II institutions. A total of 46 institutions were reviewed. Forty-eight percent offer distance education courses. Twenty percent offer master's degrees via distance education; 11% baccalaureate; and 2% associate's.

Table 17

Totals by Masters I&II Institution-- Distance Degrees Offered

		Distance	Distance Degrees Offered			
Region	Control	Courses	Associates	Baccalaureate	Masters	Other
2	Public	1	0	0	0	0
3	Public	5	1	2	4	0
4	Public	2	0	0	1	0
5	Public	9	0	3	3	0
3	Private	2	0	0	0	0
4	Private	1	0	0	0	0
5	Private	2	0	0	1	0
	Total	22	1	5	9	0
	Pct.	48%	2%	11%	20%	0%

Table 18 provides a summary of data collected for Master's I&II distance education course offerings. A total of 46 institutions were reviewed. Thirty-three percent offer social sciences; 26% education; 24% percent business; 15% fine arts; 4% engineering; and 2% other.

Table 18

Totals by Master's I&II Institution--Accredited Distance Courses Offered

		Social				
Region	Business	Sciences	Education	Engineering	Fine Arts	Other
2	1	0	0	0	0	0
3	5	4	5	0	3	1
4	1	2	1	0	1	0
5	4	9	6	2	3	0
Total	11	15	12	2	7	1
Pct.	24%	33%	26%	4%	15%	2%

Table 19 provides the summary of Master's I&II policies related to copyright, intellectual property, and information sharing/antitrust. A total of 46 institutions were

reviewed. Nine percent of the institutions publish their copyright policies on their Internet Web site, and 7% publish their intellectual property polices. None publish polices related to information sharing. Seven percent of the institutions have developed a written policy that addresses antitrust issues.

Table 19

Totals by Master's I&II Institution--Policies

	Web based policies			
Region	Copyright	Intellectual prop.	Info. sharing	Antitrust policy
1	0	0	0	1
3	1	0	0	1
4	1	1	0	1
5	2	2	0	0
Total	4	3	0	3
Pct.	9%	7%	0%	7%

Table 20 provides a total percentage summary by region of institutions offering distance education courses and their policies related to copyright, intellectual property and information sharing. Region 3(North Central) offered the highest percentage of distance courses, at 81%. Region 2(New England) at 22%, and Region 1(Middle States) at 29% offered the lowest percentage of distance courses. According to the NCES (1997), institutions in the Northeast (Region 1 and Region 2) offered the lowest percentage of distance education courses in 1995; 66% of the institutions there are private, compared with approximately 50% private in all other regions.

Institutions in Region 3(North Central) and Region 4(Northwest) had the highest percentage of policies published in the institutions' Internet Web site. Forty-five percent of the institutions in Region 4(Northwest) published copyright and intellectual property policies on their Internet Web sites. In Region 3(North Central) 27% published copyright

policies, and 23% published intellectual property policies on their institutions' Internet Web sites. Both Region 3 and Region 4 had the highest percentage of institutions with written antitrust policies, 15% and 27%, respectively.

Table 20

Totals by Region

	Distance	Web based policies			Written
Region	Courses	Copyright	Intellectual property	Info. sharing	Antitrust policy
1	29%	14%	14%	0%	14%
2	22%	11%	11%	0%	0%
3	81%	27%	23%	0%	15%
4	73%	45%	45%	0%	27%
5	78%	13%	17%	0%	0%
6	20%	11%	9%	0%	12%

Phase B-- Best Practices Multiple Case Study

Ten institutions were selected out of the top 30 institutions identified in Peterson's (1998) Guide to Distance Learning as having the largest distance education enrollment. These institutions were studied to obtain an overview of what may be considered as the best practices in American higher education for policy approaches toward copyright, intellectual property, and information sharing by institutions engaged in distance education programs, with a focus on Internet-based training. An informational survey was sent to each institution's director of distance education programs (or equivalent position). Data were obtained via e-mail, telephone and by facsimile. The 10 institutions are not directly identified, they are referred to as Case Study 1 through Case Study 10, and their Carnegie Classification and regional location are the primary identifiers in this study.

Table 21 provides an overview of the regions, Carnegie Classifications, enrollment, faculty, and policies of the 10 case studies.

Table 21

Overview Comparison of Case Study Subjects

Case Study	Region	Carnegie Class	Control	No. students Enrolled	No. faculty Fulltime	No. faculty Adjunct	Incentives For faculty	Policies published On Internet
1	North Central	Research I	Public	2500	50	0	Yes	Yes
2	North Central	Specialized	Private	12000	120	28	No	No
3	North Central	Research II	Public	5000	150	20	Yes	No
4	North Central	Research I	Public	8200	65	14	Yes	Yes
5	Southern	Specialized	Private	8500	40	12	No	No
6	Southern	Research I	Public	11155	70	7	Yes	No
7	Southern	Research I	Public	14000	5	49	Yes	Yes
8	New England	Baccalaureate	Private	4000	23	14	No	No
9	Middle States	Research I	Public	15000	28	60	Yes	Yes
10	Northwest	Doctorate I	Public	3800	20	15	Yes	Yes

Five of the six regions are included in the multiple case study. Four institutions are in the North Central region, three in the Southern region, and one each in the New England, Middle States, and Northwest regions. Five of the institutions are Research I, one is Research II, one is Doctorate I, two are Specialized, and one is Baccalaureate. Seven institutions are public, and three are privately controlled. The average distance education enrollment among the 10 case studies is 9,656 students, with an average of 57 full-time faculty and 22 adjunct faculty members who teach distance education courses at each institution. Seven of the institutions provide incentives to faculty members to teach distance education courses. Five of the institutions publish either or both of their copyright and intellectual property policies on their institutions' Internet Web site.

The following questions were presented to each institution. Answers were provided via fax, e-mail and telephone. The questions are listed below for information, in each case study response, the question is summarized and the case study answer is provided below each question:

A. Is the distance education program centrally administered?
B. What function (college, dean, and director) has responsibility for administration of the distance program?
C. How many students are currently enrolled in the institution's distance program?
D. How many full-time faculty members teach distance education courses?
E. How many adjunct/part-time instructors teach distance education courses?
F. What types of incentives are provided for faculty members to teach distance education courses?
G. Does the institution currently have a policy that addresses intellectual property rights generated by Internet-based training? What administrative area of the institution developed and/or controls the policy?
H. Does the institution centrally control policy related to intellectual property rights?
I. Do faculty members who develop Internet-based coursework share in any potential revenue for copyrighted material that may have royalty potential?
J. Has the institution updated its copyright polices to incorporate Internet-based training? Which administrative area developed and/or controls this policy?
K. Does the institution centrally control policy related to copyright issues?

L. Does the institution have a policy to address information sharing/antitrust concerns with entities outside the institution?

M. Does the institution currently publish policies on its Internet Web site for copyright, intellectual property, or information sharing?

N. What steps does the institution take to educate faculty, staff, and students regarding copyright issues in Internet-based training?

O. What steps does the institution take to educate faculty and staff regarding the institution's policy toward information-sharing/antitrust issues with outside entities when developing courses and systems for Internet-based training?

The case studies are each presented in table format, with the questions listed horizontally and the answers listed directly below the question. An additional summary table is provided in the appendix.

Case Study 1

Region-- North Central

Carnegie Classification-- Research I

Control-- Public

Question--	A. Distance education Program central Administration.	B. Functional responsibility for administration of Distance education program.	C. No. of students Enrolled in distance Courses.

Answer--	Funding is 80% Centrally controlled. Academic decisions Made at department/ And/or school/college Level.	Funding is centralized in the Office of Outreach Development.	2,500.
Question--	D. No. of full-time Faculty members Who teach distance Education courses.	E. No. of adjunct/part-time Instructors teaching Distance education Courses.	F. Types of incentives Provided to faculty Members to teach Distance education Courses.
Answer--	50.	None.	Funding for one Month's summer Salary, teaching Assistant support, And technology support.
Question--	G. Institutional policy for intellectual property Rights. Administrative Area of policy development and control.	H. Central control of Policy related to Intellectual property rights.	I. Faculty share in Potential revenue for copyrighted material Developed by faculty.
Answer--	Yes. Chancellor with some authority delegated to Deans.	No.	No.
Question--	J. Institution update of policies to incorporate Internet-based training. Administrative area of policy development and control.	K. Institution update of Copyright polices to Incorporate Internet-based training. Administrative area of policy development and control.	L. Policy to address Information sharing/ Antitrust concerns With outside entities.
Answer--	Yes. Chancellor.	Yes. Chancellor.	No.
Question--	M. Publish policies on Internet Web site for copyright, intellectual property or information sharing/antitrust?	N. Steps taken to educate faculty, staff and students regarding copyright issues in Internet-based training.	O. Steps taken to Educate faculty and Staff regarding policy Toward information Sharing/antitrust when Developing courses And systems for Internet-based training.
Answer--	Copyright policy published. Intellectual property policy published.	Workshops. Media production units that work with faculty to develop Internet courses are knowledgeable about copyright issues.	None.

Case Study 2

Region-- North Central

Carnegie Classification-- Specialized

Control-- Private

Question--	A. Distance education Program central Administration	B. Functional responsibility for administration of distance education program	C. No. of students enrolled in distance courses
Answer--	Yes.	President.	15,000
Question--	D. No. of full-time Faculty members Who teach distance Education courses.	E. No. of adjunct/part-time instructors teaching distance education courses.	F. Types of incentives provided to faculty members to teach distance education courses.
Answer--	50	12	None.
Question--	G. Institutional policy For intellectual property Rights. Administrative Area of policy development And control.	H. Central control of policy related to intellectual property rights.	I. Faculty share in potential revenue for copyrighted material developed by faculty.
Answer--	No.	Yes.	No.
Question--	J. Institution update of Policies to incorporate Internet-based training. Administrative area of Policy development and Control.	K. Institution update of copyright polices to incorporate Internet-based training. Administrative area of policy development and control.	L. Policy to address information sharing/ antitrust concerns with outside entities.
Answer--	Yes. Curriculum develop-ment and Deans.	No.	No.
Question--	M. Publish policies on Internet Web site for Copyright, intellectual Property or information Sharing/antitrust?	N. Steps taken to educate faculty, staff and students regarding copyright issues in Internet-based training.	O. Steps taken to educate faculty and staff regarding policy toward information sharing/antitrust when developing courses and systems for Internet-based training.

Answer--	Not yet, however, Planning to in next Twelve months for Copyright and intellectual Property policies.	Writer's contract includes right to publish material on Internet, included in faculty handbook.	None.

Case Study 3

Region-- North Central

Carnegie Classification-- Research II

Control-- Public

Question--	A. Distance education program central Administration	B. Functional responsibility for administration of Distance education program	C. No. of students enrolled in distance courses
Answer--	Yes.	Dean, Lifelong Learning and Director, Independent Study.	5,000
Question--	D. No. of full-time faculty members who teach distance education courses.	E. No. of adjunct/part-time Instructors teaching Distance education Courses.	F. Types of incentives provided to faculty members to teach distance education courses.
Answer--	150	20	Course development stipends.
Question--	G. Institutional policy for intellectual property rights. Administrative area of policy development and control.	H. Central control of policy related to Intellectual property rights.	I. Faculty share in potential revenue for copyrighted material developed by faculty.
Answer--	No.	Yes.	No.
Question--	J. Institution update of policies to incorporate Internet-based training. Administrative area of policy development and control.	K. Institution update of Copyright polices to Incorporate Internet-based Training. Administrative area of policy development and control.	L. Policy to address information sharing/ antitrust concerns with outside entities.
Answer--	Not yet, however, planning to in next 12 months.	Yes.	No.
Question--	M. Publish policies on Internet Web site for copyright, intellectual property or information sharing/antitrust?	N. Steps taken to educate faculty, staff and students Regarding copyright issues in Internet-based Training.	O. Steps taken to educate faculty and staff regarding policy toward information sharing/antitrust when

			developing courses and systems for Internet-based training.
Answer--	No.	Informal training during course development Process.	None.

Case Study 4

Region-- North Central

Carnegie Classification-- Research I

Control-- Public

Question--	A. Distance education Program central Administration.	B. Functional responsibility for administration of distance education program.	C. No. of students enrolled in distance courses.
Answer--	Yes.	Director, Distance Education.	11,500
Question--	D. No. of full-time Faculty members Who teach distance Education courses.	E. No. of adjunct/part-time instructors teaching distance education courses.	F. Types of incentives provided to faculty members to teach distance education courses.
Answer--	110	40	Additional pay for courseload beyond base. Site stipends, more sites remotely taught, higher stipend.
Question--	G. Institutional policy For intellectual property Rights. Administrative Area of policy development And control.	H. Central control of policy related to intellectual property rights.	I. Faculty share in potential revenue for copyrighted material developed by faculty.
Answer--	Yes. Vice President of Administration.	Yes.	Yes.
Question--	J. Institution update of Policies to incorporate Internet-based training. Administrative area of Policy development and Control.	K. Institution update of copyright polices to incorporate Internet-based training. Administrative area of policy development and control.	L. Policy to address information sharing/ antitrust concerns with outside entities.
Answer--	Yes. Vice President of Administration.	Yes.	No.
Question--	M. Publish policies on	N. Steps taken to educate	O. Steps taken to

	Internet Web site for Copyright, intellectual Property or information Sharing/antitrust?	faculty, staff and students regarding copyright issues in Internet-based training.	educate faculty and staff regarding policy toward information sharing/antitrust when developing courses And systems for Internet-based training.
Answer--	Yes for copyright and Intellectual property.	Faculty handbook and memorandums from Deans which are provided from legal department.	Memorandums from Deans which are provided from legal department.

Case Study 5

Region-- Southern

Carnegie Classification-- Specialized

Control-- Private

Question--	A. Distance education program central administration.	B. Functional responsibility for administration of distance education program.	C. No. of students enrolled in distance courses.
Answer--	Yes.	Vice President Academic Affairs.	8,500
Question--	D. No. of full-time faculty members who teach distance education courses.	E. No. of adjunct/part-time instructors teaching distance education courses.	F. Types of incentives provided to faculty members to teach distance education courses.
Answer--	30	150	None.
Question--	G. Institutional policy for intellectual property rights. Administrative area of policy development and control.	H. Central control of policy related to intellectual property rights.	I. Faculty share in potential revenue for copyrighted material developed by faculty.
Answer--	Yes. Academic committee recommends, Board of Administration approves.	Yes.	No.
Question--	J. Institution update of policies to incorporate Internet-based training. Administrative area of policy development and control.	K. Institution update of copyright polices to incorporate Internet-based training. Administrative area of policy development and control.	L. Policy to address information sharing/ antitrust concerns with outside entities.

Answer--	Yes. Academic committee recommends, Board of Administration approves.	Yes.	No.
Question--	M. Publish policies on Internet Web site for copyright, intellectual property or information sharing/antitrust?	N. Steps taken to educate faculty, staff and students regarding copyright issues in Internet-based training.	O. Steps taken to educate faculty and staff regarding policy toward information sharing/antitrust when developing courses and systems for Internet-based training.
Answer--	No.	All instructional material is copyrighted by the institutions. Information is institutions. Information is in faculty handbook and Academic committee files.	Normally done under contract or agreement.

Case Study 6

Region-- Southern

Carnegie Classification-- Research I

Control-- Public

Question--	A. Distance education program central administration.	B. Functional responsibility for administration of distance education program.	C. No. of students enrolled in distance courses.
Answer--	No.	Department Chair/Dean.	11,155
Question--	D. No. of full-time faculty members who teach distance education courses.	E. No. of adjunct/part-time instructors teaching distance education courses.	F. Types of incentives provided to faculty members to teach distance education courses.
Answer--	70	7	Faculty can earn up to 25% of base salary per semester.
Question--	G. Institutional policy for intellectual property rights. Administrative area of policy development and control.	H. Central control of policy related to intellectual property rights.	I. Faculty share in potential revenue for copyrighted material developed by faculty.

Answer--	Yes. Academic affairs.	Yes.	Yes.
Question--	J. Institution update of policies to incorporate Internet-based training. Administrative area of policy development and control.	K. Institution update of copyright polices to incorporate Internet-based training. Administrative area of policy development and control.	L. Policy to address information sharing/ antitrust concerns with outside entities.
Answer--	Yes. Administrative Affairs.	Yes.	No.
Question--	M. Publish policies on Internet Web site for copyright, intellectual property or information sharing/antitrust?	N. Steps taken to educate faculty, staff and students regarding copyright issues in Internet-based training.	O. Steps taken to educate faculty and staff regarding policy toward information sharing/antitrust when developing courses and systems for Internet-based training.
Answer--	No.	No formal training. Information is in the faculty handbook and collective bargaining agreement.	Distance education coordinator works with faculty.

Case Study 7

Region-- Southern

Carnegie Classification-- Research I

Control-- Public

Question--	A. Distance education program central administration.	B. Functional responsibility for administration of distance education program.	C. No. of students enrolled in distance courses.
Answer--	Yes.	Director, Extended Studies.	14,000
Question--	D. No. of full-time faculty members who teach distance education courses.	E. No. of adjunct/part-time instructors teaching distance education courses.	F. Types of incentives provided to faculty members to teach distance education courses.
Answer--	5	49	15% of base salary for classes with

			2 or more sites.
Question--	G. Institutional policy for intellectual property rights. Administrative area of policy development and control.	H. Central control of policy related to intellectual property rights.	I. Faculty share in potential revenue for copyrighted material developed by faculty.
Answer--	Yes. Chancellor's Office.	Yes.	No.
Question--	J. Institution update of policies to incorporate Internet-based training. Administrative area of policy development and control.	K. Institution update of copyright polices to incorporate Internet-based training. Administrative area of policy development and control.	L. Policy to address information sharing/ antitrust concerns with outside entities.
Answer--	Yes. Chancellor's Office.	Yes.	No.
Question--	M. Publish policies on Internet Web site for copyright, intellectual property or information sharing/antitrust?	N. Steps taken to educate faculty, staff and students regarding copyright issues in Internet-based training.	O. Steps taken to educate faculty and staff regarding policy toward information sharing/antitrust when developing courses and systems for Internet-based training.
Answer--	Yes, for copyright and intellectual property.	No formal training. Information is in the faculty handbook.	None.

Case Study 8

Region-- New England

Carnegie Classification-- Baccalaureate

Control-- Private

Question--	A. Distance education program central administration.	B. Functional responsibility for administration of distance education program.	C. No. of students enrolled in distance courses.
Answer--	Yes.	Academic Dean.	5,000
Question--	D. No. of full-time	E. No. of adjunct/part-time	F. Types of incentives

	faculty members who teach distance education courses.	instructors teaching distance education courses.	provided to faculty members to teach distance education courses.
Answer--	0	22	None.
Question--	G. Institutional policy for intellectual property rights. Administrative area of policy development and control.	H. Central control of policy related to intellectual property rights.	I. Faculty share in potential revenue for copyrighted material developed by faculty.
Answer--	Yes. Human Resources.	Yes.	No.
Question--	J. Institution update of policies to incorporate Internet-based training. Administrative area of policy development and control.	K. Institution update of copyright polices to incorporate Internet-based training. Administrative area of policy development and control.	L. Policy to address information sharing/ antitrust concerns with outside entities.
Answer--	No. Planning to in next 12 months(Human Res.).	Yes.	No.
Question--	M. Publish policies on Internet Web site for copyright, intellectual property or information sharing/antitrust?	N. Steps taken to educate faculty, staff and students regarding copyright issues in Internet-based training.	O. Steps taken to educate faculty and staff regarding policy toward information sharing/antitrust when developing courses and systems for Internet-based training.
Answer--	No.	Informal training.	Informal training.

Case Study 9

Region-- Middle States

Carnegie Classification-- Research I

Control-- Private

Question--	A. Distance education program central administration.	B. Functional responsibility for administration of distance education program.	C. No. of students enrolled in distance courses.
Answer--	Yes.	Dean, Outreach Programs.	20,000
Question--	D. No. of full-time faculty members who teach distance education courses.	E. No. of adjunct/part-time instructors teaching distance education courses.	F. Types of incentives provided to faculty members to teach distance education courses.
Answer--	28	60	Release time, teaching bonuses.
Question--	G. Institutional policy for intellectual property rights. Administrative area of policy development and control.	H. Central control of policy related to intellectual property rights.	I. Faculty share in potential revenue for copyrighted material developed by faculty.
Answer--	Yes. Dean, Administration. Departmental input.	Yes.	No.
Question--	J. Institution update of policies to incorporate Internet-based training. Administrative area of policy development and control.	K. Institution update of copyright polices to incorporate Internet-based training. Administrative area of policy development and control.	L. Policy to address information sharing/ antitrust concerns with outside entities.
Answer--	No, however, planning to in next 12 months. VP Administration.	Yes.	No.
Question--	M. Publish policies on Internet Web site for copyright, intellectual property or information sharing/antitrust?	N. Steps taken to educate faculty, staff and students regarding copyright issues in Internet-based training.	O. Steps taken to educate faculty and staff regarding policy toward information sharing/antitrust when developing courses and systems for Internet-based training.
Answer--	Yes for intellectual property. Planning for copyright and information sharing in next 12 months.	Faculty handbook.	None, planning to in next 12 months.

Case Study 10

Region-- Northwest

Carnegie Classification-- Doctorate I.

Control-- Public

Question--	A. Distance education program central administration.	B. Functional responsibility for administration of distance education program.	C. No. of students enrolled in distance courses.
Answer--	Yes.	Director, Distance Ed.	3,800
Question--	D. No. of full-time faculty members who teach distance education courses.	E. No. of adjunct/part-time instructors teaching distance education courses.	F. Types of incentives provided to faculty members to teach distance education courses.
Answer--	20	15	Additional pay based on enrollment.
Question--	G. Institutional policy for intellectual property rights. Administrative area of policy development and control.	H. Central control of policy related to intellectual property rights.	I. Faculty share in potential revenue for copyrighted material developed by faculty.
Answer--	Yes. Director, Admin.	Yes.	No.
Question--	J. Institution update of policies to incorporate Internet-based training. Administrative area of policy development and control.	K. Institution update of copyright polices to incorporate Internet-based training. Administrative area of policy development and control.	L. Policy to address information sharing/ antitrust concerns with outside entities.
Answer--	Yes. Director, Admin.	Yes.	No.
Question--	M. Publish policies on Internet Web site for copyright, intellectual property or information sharing/antitrust?	N. Steps taken to educate faculty, staff and students regarding copyright issues in Internet-based training.	O. Steps taken to educate faculty and staff regarding policy toward information sharing/antitrust when developing courses and systems for

			Internet-based training.
Answer--	Yes for copyright and intellectual property.	Formal seminars lead by Distance Ed. Director. Faculty handbook.	None.

Findings Relative to Research Questions

Based on the data collected in Phase A and Phase B of this study, answers to the research questions are provided below:

1. In distance and technology-based training, does institutional policy toward Internet-related copyright issues differ based upon the public/private control of an institution?

   Based upon the data in Phase A, 26% percent of the public institutions published copyright polices on their Internet Web site, compared with 15% of the private institutions. From data in Phase B, six of the seven public institutions had updated copyright polices to incorporate Internet-based training. Two of the three private institutions had updated copyright polices to incorporate Internet –based training. Phase C data indicates that institutions, both public and private, have lagged in this policy area in comparison to the growth rate of distance education.

2. In distance and technology-based training does institutional policy toward Internet-related intellectual property ownership differ based upon the public/private control of an institution?

   Based upon the data in Phase A, 24% percent of the public institutions published intellectual property policies on their Internet Web site, compared with 19% of the private institutions. Phase B data indicated that none of the private institutions published this policy on their Internet Web site, although all three had developed a policy. Six of the 7 public institutions in Phase B published this policy on their Internet Web site, one indicated it had not developed a policy for intellectual property rights. Phase C data indicated that policy development in this area has lagged behind the growth rate of distance education in higher education institutions.

3. In distance and technology-based training does institutional policy toward Internet-related course material and licensing issues differ based upon the public/private control of an institution?

   None of the institutions involved in the case study had developed a policy for protecting the institution when sharing competitive sensitive information with outside concerns. The lack of policy detected in this area contrasted with the Phase C data which provided that 25% of the institutions utilized some form of outside service to develop distance-based courses. Phase C also indicated that 23% of colleges with distance education programs attempt to sell or license distance learning services to other organizations.

4. In distance and technology-based training does institutional policy toward commercially-related information sharing with other institutions differ based upon the public/private control of an institution?

   An evaluation of the data from Phase A indicated that none of the public or private institutions had published information-sharing policies on their Internet Web site. Fourteen percent of the public institutions had developed a written policy for antitrust issues, and 4% of the private institutions had developed an antitrust policy. From the data collected in Phase B, none of the public or private institutions had developed a policy for controlling collaborations with outside concerns in developing Internet-based training systems.

5. In distance and technology-based training does institutional policy toward Internet-related copyright issues differ based upon the Carnegie Classification of the institution?

   Phase A data indicates that 43%percent of Research I&II publish copyright policies on their Internet Web page, compared with 41% percent Doctorate I&II and 9% Master's I&II. Data from the Phase B study indicate that one of the five Research I institutions did not centrally control copyright policy. All others in the Phase B study reported central control of copyright policy at the institution. One Baccalaureate and one Research II institution indicated that they had not updated their institutions' copyright policy to encompass Internet-based training.

6. In distance and technology-based training does institutional policy toward Internet related intellectual property ownership differ based upon the Carnegie Classification of the institution?

The Phase A data indicate that 50% of the Research I&II institutions published intellectual property policy on their Internet Web site, compared with 41% of the Doctorate I&II and 7% of the Master's I&II institutions. From the Phase B study, all institutions indicated central control of the intellectual property policy, with the exception of one Research I institution.

7. In distance and technology-based training does institutional policy toward Internet-related course material and licensing issues differ based upon the public/private control of an institution?

None of the institutions in Phase A or Phase B indicated that institutional policy existed in this area.

8. In distance and technology-based training does institutional policy toward commercially-related information sharing with other institutions of higher education differ based upon the Carnegie Classification of the institution?

None of the institutions in Phases A or B indicated that policy existed in this area. From the Phase A study, written antitrust policy was observed in 14% of the Research I&II institutions, 18% of Doctorate I&II, and 7% in Master's I&II.

9. What are the attributes of institutions that offer distance education and publish applicable policies on the Web?

Research I&II and Doctorate I&II institutions were more likely to publish policies on their Internet-Web site than Masters I&II, based on the data in Phase A. Forty-three percent of Research I&II and 41% of Doctorate I&II published copyright policies on their Internet Web site, compared with 9% of Master's I&II. Fifty percent of Research I&II and 41% of Doctorate I&II published intellectual property rights

policies on their Internet Web site, compared with 7% of Master's I&II. Phase C data indicated that five of six (72%) Research I&II institutions published these policies on their Internet Web site. Phase A data also indicated that a greater percentage of public institutions published these policies on their Internet Web site.

10. How have institutions adopted policies developed to handle print media copyright and intellectual property issues in the new age of Internet technology and the fair use doctrine?

    Phase B data indicated that 86% of public institutions and 66% of private institutions had updated copyright and intellectual property policies to address Internet-based distance education. From Phase C data, 43% of institutions indicated that legal concerns(copyright and intellectual property issues) were factors in starting or expanding distance education offerings. Additionally from Phase C, the general observation indicated that policy in this area lagged behind the growth rate of distance education offerings.

11. What are the best practices of institutions engaged in internet-based distance education for preventing adverse legal actions in internet-based training areas of copyright, intellectual property and information?

    Table 22 provides a summary of the benchmarks obtained in the Phase B study. The best practices identified in the literature review and Phase C indicate the following are important aspects of minimize legal risk: (a) central control of distance education program; (b) collaborative development and central control of copyright policy at the institution; (c) collaborative development and central control of

intellectual property policy; and (d) utilization of institutional Internet Web site to publish these policies for real-time access.

Table 22

Best Practices Summary--Policy Approaches

Case Study	Carnegie Class	Control	Distance Program Central control	Copyright Policy Central control	Intellectual Prop. Policy Central control	Updated Copyright policy	Publish Policies on Internet Web Site
8	Baccalaureate	Private	Yes	Yes	Yes	No-Planning	No
10	Doctorate I	Public	Yes	Yes	Yes	Yes	Yes
1	Research I	Public	Yes	No	No	Yes	Yes
4	Research I	Public	Yes	Yes	Yes	Yes	Yes
9	Research II	Public	Yes	Yes	Yes	Yes	Yes
3	Research II	Public	Yes	Yes	Yes	No-Planning	No
6	Research II	Public	No	Yes	Yes	Yes	No
7	Research II	Public	Yes	Yes	Yes	Yes	Yes
2	Specialized	Private	Yes	Yes	Yes	Yes	No
5	Specialized	Private	Yes	Yes	Yes	Yes	No

Ninety percent of the institutions in Phase B multiple case study indicated that the distance education program was centrally controlled. Additionally, 90% of the institutions indicated that both copyright and intellectual property polices were centrally controlled. Ninety percent had developed an intellectual property policy for Internet-based training. Eighty percent have updated copyright policies to include Internet-based training. Fifty percent indicate that policies are published on the institutions' Web site for copyright and intellectual property.

Additionally, most institutions had some type of training program for copyright and intellectual property matters. The following areas of training are considered best practices by these institutions: (a) Formal and informal seminars for faculty and staff, lead by Distance Education department personnel in conjunction with legal department support, (b) Faculty handbook documentation for copyright and intellectual property matters, and (c) Departmental memorandums from Director or

Dean, reviewed by institutional legal department, to provide information and guide faculty and staff in copyright and intellectual property matters.

The institutions also provided some best practice approaches to faculty and distance education. Many offered incentives to faculty who teach distance education courses, these include: (a) Up to 25% bonus pay in addition to base pay for teaching distance education courses, (b) full technical support and teaching assistance, (c) additional pay or bonus based on the number of distance education sites involved in a course of instruction, and (d) course preparation stipends.

CHAPTER 6

SUMMARY, IMPLICATIONS AND RECOMMENDATIONS

Summary

This study evaluated the approaches institutions take toward development and implementation of copyright and intellectual property policy for distance education with a focus on Internet-based training in higher education institutions. It also collected and evaluated data regarding information sharing and antitrust issues in distance education and institutional business collaboration with outside concerns for higher education distance education course development and transmission. The major findings of this study are summarized as follows (findings from pilot study identified as Phase A, findings from multiple case study identified as Phase B):

1. Distance education programs (based upon the number of institutions offering distance education course) have grown at an estimated rate that exceeded 11% per year between 1995 and 1998(Phase A). This includes Research I&II, Doctorate I&II and Master's I&II institutions. Associates and Specialized institutions are excluded from this study.
2. Survey data indicated that higher education institutions buy and/or sell distance education course development services at a rate estimated to exceed 23% (Primary Research, 1997). This suggests the need for institutions to have the business policies in place to meet this demand.

3. Data from the pilot study indicated that approximately 10% of all higher education institutions had developed some type of written policy addressing information-sharing/antitrust issues. Approximately 16% of Research I&II institutions; 14% of Doctorate I&II and 7% of Master's I&II institutions reported this type of policy. Fourteen percent of the public institutions and 4% of the private institutions had written policies in this area (Phase A).

4. Data from this study indicated that approximately 80% of Research I&II, Doctorate I&II and Master's I&II institutions offered some type of distance education course by September, 1999, which included approximately 60% public institutions and 40% private institutions (Phase A).

5. Regarding institutions that publish copyright and intellectual property policies on their Internet Web site, 26% of the public institutions published copyright policies, compared with 15% of the private institutions. Twenty-four percent of the public institutions published intellectual property policies, compared with 19% of the private institutions. By Carnegie Classification, 43% of Research I&II, 41% of Doctorate I&II and 9% of Master's I&II publish polices related to copyright issues on their Internet Web site. Fifty percent of Research I&II, 41% of Doctorate I&II and 7% of Master's I&II publish policies related to intellectual property issues on their Internet Web site (Phase A).

6. None of the institutions in this study published information-sharing/antitrust polices on their Internet Web site(Phase A and Phase B). None of the institutions in the case study indicated that they had a policy in place for information-sharing issues for distance education commercial activity (Phase B). This is an area of concern due to the lack of existing policy, compounded by the projected growth in this field, some institutions may not be prepared to effectively manage litigation risks in this commercial arena.
7. Ninety percent of the institutions evaluated in the multiple case study reported that the distance education program was centrally controlled (Phase B).
8. Ninety percent of the institutions evaluated in the multiple case study reported that copyright policy was centrally controlled(Phase B).
9. Ninety percent of the institutions evaluated in the multiple case study reported that intellectual property policy was centrally controlled(Phase B).
10. Ninety percent of the institutions evaluated in the multiple case study reported that they had updated copyright polices to incorporate Internet-based training (Phase B).
11. Seventy percent of the institutions in the multiple case study offered some type of incentive to faculty members engaged in distance education teaching (Phase B). Some of the incentives reported included bonus pay

based on number of sites taught, extended time off, course development assistance, and stipends.

Data indicate that distance education programs continue to grow at a pace of over 11% per year in terms of new program offerings and enrollment. This is based on the Phase A data and excludes Associates and Specialized institutions. With the addition of these institutions, the growth rate, as estimated by the NCES (1997) exceeds 20% per year. Survey, symposium and case study data indicate that institutional policy development may be lagging behind this growth rate.

While institutions engage in commercial activity related to distance education courses, they do not appear to have policies developed for the potential business risks involved in information-sharing with outside concerns. None of the institutions involved in the multiple case study, Phase B, indicated that they had a policy in this area. From the pilot study and Phase A data, only 10% of all institutions in the study advised they had developed a written policy toward information sharing and antitrust risk. This is an area of concern since the surveys reviewed indicated more institutions were involved in commercial activity regarding distance education, from selling course development services to buying course development and technical services.

The data in general indicated a difference between public and private institutional approaches to Internet-based policies. Based on the data in Phase A of this study, more public institutions published copyright and intellectual property policies on their Internet Web sites than did private institutions. Additionally, higher level Carnegie Classification institutions appeared to have more Internet-based approaches to these policies than did lower level institutions, based upon the data in Phase A and Phase B.

Research I&II and Doctorate I&II published these policies on their Internet Web sites in up to 50% of the cases, compared with Master's I&II at less than 10% of the cases.

From the Phase B case studies, some best-practices approaches to policy development in these areas emerged. Most notably, the central control of the distance education program was a prominent observation. Additionally, central control via collaborative development of the institutions' copyright and intellectual property policies was discovered. The consistent monitoring and update of policies related to copyright and intellectual property was evidenced, based on the rapid growth and change of Internet-based training. Finally, institutional approaches and best-practices involved training and education of faculty and staff for copyright and intellectual property policy concerns.

Faculty incentives were also found in the best-practices study, including (a) bonus pay, based on the number of distance education courses taught and the size of the program, (b) technology assistance, (c) flexibility in scheduling and time off as an incentive, and (d) teaching assistant personnel for distance education courses.

Implications of the Findings for Higher Education

It seems evident that higher education institutions involved in Internet-based distance education need to review their current policies toward copyright and intellectual property issues and potentially update them as necessary to minimize legal risks and to prepare for the rapid changes in growth in Internet based training. The findings in this

study raise serious concerns about potential risks institutions face in commercial activity. Higher education institutions have not developed adequate policy approaches in this area.

The study found that the top institutions in American higher education distance education centrally controlled the distance education program as well as the associated copyright and intellectual property policies. These polices were, in many cases, developed in a collaborative style with a central administrative area as the team leader and central control point.

Additionally, higher education institutions that engage in commercial activities specifically related to Internet-based training should carefully evaluate the process in which the institution engages with outside concerns to minimize potential antitrust risks. The study found this to be the major weakness area. Survey data and related literature revealed that institutions had collaborated with businesses and other entities in developing distance education courses and systems. With the exception of one institution in the case study section, no other benchmark data were found to indicate institutions have developed policies in this area.

Institutions involved in Internet-based distance education should evaluate their faculty reward system to ensure they maintain and attract the desired instructors to make the program effective and successful.

The challenge of distance education in America is affecting all of higher education. Peter Drucker has indicated that universities will not survive by ignoring distance education(Gubernick & Ebeling, 1997).

Recommendations for Further Research

Some recommendations for further research applicable to higher education institutions include the following: (a) expand the current study to include the approaches utilized by Associate and Baccalaureate higher education institutions, (b) analyze the role and impact of selected higher education institutions' procurement department in contracting for distance education services, (c) expand the current study to fully explore the rate at which institutions change and/or update copyright and intellectual property policies to keep pace with the rapid changes in the Internet transactions conducted in electronic media, and (d) study the impact of Internet-based distance education on the general price level of higher education institutional tuition.

In addition, more studies should be conducted on the costs of college education in America, and the potential impact Internet-based training will have on these costs. For example, what are the costs of earning a college degree by distance education and by traditional courses? One example of such costs has been reviewed at the University of Maine System Network(Gubernick & Ebeling, 1997). For a standard 120 credit hour degree program, a student would pay $16,000 by completing through distance coursework compared with $37,000 for the traditional on-campus program.

APPENDIX A

DATA COLLECTION MATRIX

	Data item	Data item	Data item
Area of concern	1	2	3
A. Intellectual property policy Web/written			
B. Copyright policy Web/written			
C. Information sharing policy Web/written			
D. Carnegie Classification			
E. Public/private control			
F. Distance ed. courses by dept.			
G. Distance ed. Degree offered			
H. Number of students			
I. Number of faculty			
J. Faculty incentives			
K. Joint projects/Web/written policy			

APPENDIX B

PHASE A DATA COLLECTED

Totals By Public Institution-- Distance Degrees Offered

	Carnegie	Distance	Distance degrees offered			
Region	Class	Courses	Associates	Baccalaureate	Masters	Other
1	RES I&II	1	1	0	0	0
1	RES I&II	1	0	0	1	0
3	RES I&II	1	0	0	1	0
3	RES I&II	1	1	1	1	1
3	RES I&II	1	0	1	1	1
3	RES I&II	1	0	1	1	1
3	RES I&II	1	1	0	0	0
3	RES I&II	1	1	1	1	0
3	RES I&II	1	0	1	0	0
3	RES I&II	1	0	1	0	0
3	RES I&II	1	0	1	0	0
4	RES I&II	1	0	1	1	0
2	DOC I&II	0	0	0	0	0
3	DOC I&II	1	0	0	0	0
3	DOC I&II	1	0	0	0	0
4	DOC I&II	1	1	1	1	0
4	DOC I&II	1	0	1	1	0
4	DOC I&II	1	0	0	1	0
4	DOC I&II	1	0	0	0	0
5	DOC I&II	1	0	1	1	0
5	DOC I&II	1	0	1	0	0
5	DOC I&II	1	0	0	1	0
5	DOC I&II	1	0	0	0	0
5	DOC I&II	1	0	1	0	0
1	MASTERS I&II	0	0	0	0	0
1	MASTERS I&II	0	0	0	0	0
1	MASTERS I&II	0	0	0	0	0
2	MASTERS I&II	0	0	0	0	0
2	MASTERS I&II	1	0	0	0	0
2	MASTERS I&II	0	0	0	0	0
3	MASTERS I&II	0	0	0	0	0
3	MASTERS I&II	1	0	0	1	0
3	MASTERS I&II	1	0	0	0	0
3	MASTERS I&II	1	0	1	1	0
3	MASTERS I&II	1	0	0	1	0
3	MASTERS I&II	1	1	1	1	0
4	MASTERS I&II	1	0	0	1	0
4	MASTERS I&II	1	0	0	0	0
5	MASTERS I&II	1	0	1	0	0
5	MASTERS I&II	0	0	0	0	0
5	MASTERS I&II	1	0	0	0	0
5	MASTERS I&II	0	0	0	0	0
5	MASTERS I&II	1	0	0	0	0
5	MASTERS I&II	1	0	0	0	0
5	MASTERS I&II	1	0	0	0	0
5	MASTERS I&II	1	0	1	1	0
5	MASTERS I&II	0	0	0	0	0
5	MASTERS I&II	1	0	0	1	0
5	MASTERS I&II	1	0	1	1	0
5	MASTERS I&II	1	0	0	0	0
	TOTAL	40	6	18	20	3
	PCT.	80%	12%	36%	40%	6%

Totals by Public Institution--Accredited Distance Courses Offered

	Carnegie	Distance courses					
Region	Class	Business	Social Sciences	Education	Engineering	Fine Arts	Other
1	RES I&II	1	1	0	0	1	0
1	RES I&II	1	1	1	1	0	0
3	RES I&II	1	1	1	1	1	1
3	RES I&II	1	1	1	1	1	1
3	RES I&II	1	1	1	1	1	1
3	RES I&II	1	1	1	1	1	1
3	RES I&II	1	1	0	0	0	0
3	RES I&II	1	1	1	0	0	0
3	RES I&II	1	1	1	0	1	1
3	RES I&II	1	1	1	0	1	0
3	RES I&II	0	1	1	0	1	0
4	RES I&II	1	1	1	1	0	0
2	DOC I&II	0	0	0	0	0	0
3	DOC I&II	1	0	0	1	0	1
3	DOC I&II	1	1	0	0	0	0
4	DOC I&II	1	1	1	0	1	1
4	DOC I&II	1	1	0	0	0	0
4	DOC I&II	0	1	1	0	0	0
4	DOC I&II	1	1	1	0	1	0
5	DOC I&II	1	1	1	0	0	0
5	DOC I&II	1	1	1	0	0	1
5	DOC I&II	0	1	0	0	0	0
5	DOC I&II	0	1	1	0	0	0
5	DOC I&II	1	1	0	0	0	0
1	MASTERS	0	0	0	0	0	0
1	MASTERS	0	0	0	0	0	0
1	MASTERS	0	0	0	0	0	0
2	MASTERS	0	0	0	0	0	0
2	MASTERS	1	0	0	0	0	0
2	MASTERS	0	0	0	0	0	0
3	MASTERS	0	0	0	0	0	0
3	MASTERS	1	0	1	0	0	0
3	MASTERS	1	1	1	0	0	0
3	MASTERS	1	1	1	0	1	0
3	MASTERS	1	1	0	0	0	0
3	MASTERS	1	1	1	0	1	0
4	MASTERS	0	1	0	0	0	0
4	MASTERS	1	1	1	0	0	0
5	MASTERS	0	1	1	0	0	0
5	MASTERS	0	0	0	0	0	0
5	MASTERS	0	1	1	0	0	0
5	MASTERS	0	0	0	0	0	0
5	MASTERS	0	1	1	1	0	0
5	MASTERS	1	1	0	0	0	0
5	MASTERS	1	1	1	0	0	0
5	MASTERS	0	1	1	0	1	0
5	MASTERS	0	0	0	0	0	0
5	MASTERS	0	1	0	0	0	0
5	MASTERS	1	1	0	1	0	0
5	MASTERS	1	1	0	0	1	0
	TOTAL	30	37	26	9	14	8
	PCT.	60%	74%	52%	18%	28%	16%

Public Institution Policies

	Carnegie	Web based policies			Written
Region	Class	Copyright	Intellectual property	Info. sharing	antitrust policy
1	RES I&II	1	1	0	0
1	RES I&II	0	0	0	0
3	RES I&II	1	1	0	0
3	RES I&II	1	1	0	0
3	RES I&II	0	0	0	1
3	RES I&II	0	0	0	0
3	RES I&II	1	1	0	1
3	RES I&II	0	0	0	0
3	RES I&II	0	0	0	0
3	RES I&II	0	0	0	0
3	RES I&II	1	1	0	0
4	RES I&II	0	0	0	0
2	DOC I&II	0	0	0	0
3	DOC I&II	0	0	0	0
3	DOC I&II	0	0	0	0
4	DOC I&II	1	1	0	0
4	DOC I&II	1	1	0	1
4	DOC I&II	1	1	0	1
4	DOC I&II	1	1	0	0
5	DOC I&II	0	0	0	0
5	DOC I&II	0	0	0	0
5	DOC I&II	0	0	0	0
5	DOC I&II	0	0	0	0
5	DOC I&II	0	0	0	0
1	MASTERS I&II	0	0	0	0
1	MASTERS I&II	0	0	0	1
1	MASTERS I&II	0	0	0	0
2	MASTERS I&II	0	0	0	0
2	MASTERS I&II	0	0	0	0
2	MASTERS I&II	0	0	0	0
3	MASTERS I&II	0	0	0	0
3	MASTERS I&II	1	0	0	0
3	MASTERS I&II	0	0	0	0
3	MASTERS I&II	0	0	0	0
3	MASTERS I&II	0	0	0	0
3	MASTERS I&II	0	0	0	1
4	MASTERS I&II	0	0	0	0
4	MASTERS I&II	1	1	0	1
5	MASTERS I&II	0	0	0	0
5	MASTERS I&II	0	0	0	0
5	MASTERS I&II	0	0	0	0
5	MASTERS I&II	0	0	0	0
5	MASTERS I&II	0	0	0	0
5	MASTERS I&II	0	0	0	0
5	MASTERS I&II	0	0	0	0
5	MASTERS I&II	1	1	0	0
5	MASTERS I&II	0	0	0	0
5	MASTERS I&II	1	1	0	0
5	MASTERS I&II	0	0	0	0
5	MASTERS I&II	0	0	0	0
	TOTAL	13	12	0	7
	PCT.	26%	24%	0%	14%

Totals by Private Institution-- Distance Degrees Offered

	Carnegie	Distance	Distance degrees			
Region	Class	Courses	Associates	Baccalaureate	Masters	Other
3	RES I&II	1	0	0	1	0
5	RES I&II	1	0	0	1	0
2	DOC I&II	1	0	0	1	0
3	DOC I&II	1	0	0	0	0
3	DOC I&II	1	0	0	1	0
5	DOC I&II	1	0	0	1	0
6	DOC I&II	0	0	0	0	0
1	MASTERS I&II	0	0	0	0	0
1	MASTERS I&II	0	0	0	0	0
2	MASTERS I&II	0	0	0	0	0
2	MASTERS I&II	0	0	0	0	0
2	MASTERS I&II	0	0	0	0	0
2	MASTERS I&II	0	0	0	0	0
3	MASTERS I&II	0	0	0	0	0
3	MASTERS I&II	0	0	0	0	0
3	MASTERS I&II	1	0	0	0	0
3	MASTERS I&II	1	0	0	0	0
3	MASTERS I&II	0	0	0	0	0
3	MASTERS I&II	0	0	0	0	0
4	MASTERS I&II	0	0	0	0	0
4	MASTERS I&II	0	0	0	0	0
4	MASTERS I&II	1	0	0	0	0
5	MASTERS I&II	0	0	0	0	0
5	MASTERS I&II	1	0	0	0	0
5	MASTERS I&II	0	0	0	0	0
5	MASTERS I&II	1	0	0	1	0
6	MASTERS I&II	0	0	0	0	0
	TOTAL	11	0	0	6	0
	PCT.	41%	0%	0%	22%	0%

Totals by Private Institution-- Distance Degrees Offered

	Carnegie	Distance	Distance degrees			
Region	Class	Courses	Associates	Baccalaureate	Masters	Other
3	RES I&II	1	0	0	1	0
5	RES I&II	1	0	0	1	0
2	DOC I&II	1	0	0	1	0
3	DOC I&II	1	0	0	0	0
3	DOC I&II	1	0	0	1	0
5	DOC I&II	1	0	0	1	0
6	DOC I&II	0	0	0	0	0
1	MASTERS I&II	0	0	0	0	0
1	MASTERS I&II	0	0	0	0	0
2	MASTERS I&II	0	0	0	0	0
2	MASTERS I&II	0	0	0	0	0
2	MASTERS I&II	0	0	0	0	0
2	MASTERS I&II	0	0	0	0	0
3	MASTERS I&II	0	0	0	0	0
3	MASTERS I&II	0	0	0	0	0
3	MASTERS I&II	1	0	0	0	0
3	MASTERS I&II	1	0	0	0	0
3	MASTERS I&II	0	0	0	0	0
3	MASTERS I&II	0	0	0	0	0
4	MASTERS I&II	0	0	0	0	0
4	MASTERS I&II	0	0	0	0	0
4	MASTERS I&II	1	0	0	0	0
5	MASTERS I&II	0	0	0	0	0
5	MASTERS I&II	1	0	0	0	0
5	MASTERS I&II	0	0	0	0	0
5	MASTERS I&II	1	0	0	1	0
6	MASTERS I&II	0	0	0	0	0
	TOTAL	11	0	0	6	0
	PCT.	41%	0%	0%	22%	0%

Private Institution Policies

	Carnegie		Web- based policies		Written
Region	Class	Copyright	Intellectual property	Info. sharing	Antitrust policy
3	RES I&II	1	1	0	0
5	RES I&II	0	1	0	0
2	DOC I&II	1	1	0	0
3	DOC I&II	0	0	0	0
3	DOC I&II	1	1	0	1
5	DOC I&II	1	1	0	0
6	DOC I&II	0	0	0	0
1	MASTERS I&II	0	0	0	0
1	MASTERS I&II	0	0	0	0
2	MASTERS I&II	0	0	0	0
2	MASTERS I&II	0	0	0	0
2	MASTERS I&II	0	0	0	0
2	MASTERS I&II	0	0	0	0
3	MASTERS I&II	0	0	0	0
3	MASTERS I&II	0	0	0	0
3	MASTERS I&II	0	0	0	0
3	MASTERS I&II	0	0	0	0
3	MASTERS I&II	0	0	0	0
3	MASTERS I&II	0	0	0	0
4	MASTERS I&II	0	0	0	0
4	MASTERS I&II	0	0	0	0
4	MASTERS I&II	0	0	0	0
5	MASTERS I&II	0	0	0	0
5	MASTERS I&II	0	0	0	0
5	MASTERS I&II	0	0	0	0
5	MASTERS I&II	0	0	0	0
6	MASTERS I&II	0	0	0	0
	TOTAL	4	5	0	1
	PCT.	15%	19%	0%	4%

Totals by Research I&II Institution-- Distance Degrees Offered

		Distance	Distance degrees			
Region	Control	Courses	Associates	Baccalaureate	Masters	Other
1	1	1	1	0	0	0
1	1	1	0	0	1	0
3	1	1	0	0	1	0
3	1	1	1	1	1	1
3	1	1	0	1	1	1
3	1	1	0	1	1	1
3	1	1	1	0	0	0
3	1	1	1	1	1	0
3	1	1	0	1	0	0
3	1	1	0	1	0	0
3	1	1	0	1	0	0
4	1	1	0	1	1	0
3	2	1	0	0	1	0
5	2	1	0	0	1	0
TOTAL		14	4	8	9	3
PCT.		100%	29%	57%	64%	21%

Totals by Research I &II Institution-- Accredited Distance Courses

	Distance courses					
Region	Business	Social Sciences	Education	Engineering	Fine Arts	Other
1	1	1	0	0	1	0
1	1	1	1	1	0	0
3	1	1	1	1	1	1
3	1	1	1	1	1	1
3	1	1	1	1	1	1
3	1	1	1	1	1	1
3	1	1	0	0	0	0
3	1	1	1	0	0	0
3	1	1	1	0	1	1
3	1	1	1	0	1	0
3	0	1	1	0	1	0
4	1	1	1	1	0	0
3	1	0	0	0	0	0
5	0	0	0	0	0	1
TOTAL	12	12	10	6	8	6
PCT.	86%	86%	71%	43%	57%	43%

Totals by Research I&II Institution--Policies

		Web based policies		Written
Region	Copyright	Intellectual property	Info. sharing	Antitrust policy
1	1	1	0	0
1	0	0	0	0
3	1	1	0	0
3	1	1	0	0
3	0	0	0	1
3	0	0	0	0
3	1	1	0	1
3	0	0	0	0
3	0	0	0	0
3	0	0	0	0
3	1	1	0	0
4	0	0	0	0
3	1	1	0	0
5	0	1	0	0
TOTAL	6	7	0	2
PCT.	43%	50%	0%	14%

Totals by Doctorate I&II Institution- Distance Degrees Offered

		Distance	Distance degrees			
Region	Control	Courses	Associates	Baccalaureate	Masters	Other
2	1	0	0	0	0	0
3	1	1	0	0	0	0
3	1	1	0	0	0	0
4	1	1	1	1	1	0
4	1	1	0	1	1	0
4	1	1	0	0	1	0
4	1	1	0	0	0	0
5	1	1	0	1	1	0
5	1	1	0	1	0	0
5	1	1	0	0	1	0
5	1	1	0	0	0	0
5	1	1	0	1	0	0
2	2	1	0	0	1	0
3	2	1	0	0	0	0
3	2	1	0	0	1	0
5	2	1	0	0	1	0
6	2	0	0	0	0	0
TOTAL		15	1	5	8	0
PCT.		88%	6%	29%	47%	0%

Totals by Doctorate I&II Institution-- Accredited Distance Courses

		Distance courses				
Region	Business	Social sciences	Education	Engineering	Fine arts	Other
2	0	0	0	0	0	0
3	1	0	0	1	0	1
3	1	1	0	0	0	0
4	1	1	1	0	1	1
4	1	1	0	0	0	0
4	0	1	1	0	0	0
4	1	1	1	0	1	0
5	1	1	1	0	0	0
5	1	1	1	0	0	1
5	0	1	0	0	0	0
5	0	1	1	0	0	0
5	1	1	0	0	0	0
2	1	0	0	1	0	0
3	1	1	0	1	1	0
3	1	0	0	0	0	0
5	1	1	1	0	1	0
6	0	0	0	0	0	0
TOTAL	12	12	7	3	4	3
PCT.	71%	71%	41%	18%	24%	18%

Totals by Doctorate I&II Institution-- Policies

	Web based policies			Written
Region	Copyright	Intellectual property	Info. sharing	Antitrust policy
2	0	0	0	0
3	0	0	0	0
3	0	0	0	0
4	1	1	0	0
4	1	1	0	1
4	1	1	0	1
4	1	1	0	0
5	0	0	0	0
5	0	0	0	0
5	0	0	0	0
5	0	0	0	0
5	0	0	0	0
2	1	1	0	0
3	0	0	0	0
3	1	1	0	1
5	1	1	0	0
6	0	0	0	0
TOTAL	7	7	0	3
PCT.	41%	41%	0%	18%

Totals by Masters I&II Institution-- Distance Degrees Offered

		Distance	Distance degrees offered			
Region	Control	Courses	Associates	Baccalaureate	Masters	Other
1	1	0	0	0	0	0
1	1	0	0	0	0	0
1	1	0	0	0	0	0
2	1	0	0	0	0	0
2	1	1	0	0	0	0
2	1	0	0	0	0	0
3	1	0	0	0	0	0
3	1	1	0	0	1	0
3	1	1	0	0	0	0
3	1	1	0	1	1	0
3	1	1	0	0	1	0
3	1	1	1	1	1	0
4	1	1	0	0	1	0
4	1	1	0	0	0	0
5	1	1	0	1	0	0
5	1	0	0	0	0	0
5	1	1	0	0	0	0
5	1	0	0	0	0	0
5	1	1	0	0	0	0
5	1	1	0	0	0	0
5	1	1	0	0	0	0
5	1	1	0	1	1	0
5	1	0	0	0	0	0
5	1	1	0	0	1	0
5	1	1	0	1	1	0
5	1	1	0	0	0	0
1	2	0	0	0	0	0
1	2	0	0	0	0	0
2	2	0	0	0	0	0
2	2	0	0	0	0	0
2	2	0	0	0	0	0
2	2	0	0	0	0	0
3	2	0	0	0	0	0
3	2	0	0	0	0	0
3	2	1	0	0	0	0
3	2	1	0	0	0	0
3	2	0	0	0	0	0
3	2	0	0	0	0	0
4	2	0	0	0	0	0
4	2	0	0	0	0	0
4	2	1	0	0	0	0
5	2	0	0	0	0	0
5	2	1	0	0	0	0
5	2	0	0	0	0	0
5	2	1	0	0	1	0
6	2	0	0	0	0	0
TOTAL		22	1	5	9	0
PCT.		48%	2%	11%	20%	0%

Totals by Master's I&II Institution--Accredited Distance Courses Offered

		Distance courses				
Region	Business	Social Sciences	Education	Engineering	Fine Arts	Other
1	0	0	0	0	0	0
1	0	0	0	0	0	0
1	0	0	0	0	0	0
2	0	0	0	0	0	0
2	1	0	0	0	0	0
2	0	0	0	0	0	0
3	0	0	0	0	0	0
3	1	0	1	0	0	0
3	1	1	1	0	0	0
3	1	1	1	0	1	0
3	1	1	0	0	0	0
3	1	1	1	0	1	0
4	0	1	0	0	0	0
4	1	1	1	0	0	0
5	0	1	1	0	0	0
5	0	0	0	0	0	0
5	0	1	1	0	0	0
5	0	0	0	0	0	0
5	0	1	1	1	0	0
5	1	1	0	0	0	0
5	1	1	1	0	0	0
5	0	1	1	0	1	0
5	0	0	0	0	0	0
5	0	1	0	0	0	0
5	1	1	0	1	0	0
5	1	1	0	0	1	0
1	0	0	0	0	0	0
1	0	0	0	0	0	0
2	0	0	0	0	0	0
2	0	0	0	0	0	0
2	0	0	0	0	0	0
2	0	0	0	0	0	0
3	0	0	0	0	0	0
3	0	0	0	0	0	0
3	0	0	1	0	1	0
3	0	0	0	0	0	1
3	0	0	0	0	0	0
3	0	0	0	0	0	0
4	0	0	0	0	0	0
4	0	0	0	0	0	0
4	0	0	0	0	1	0
5	0	0	0	0	0	0
5	0	0	0	0	1	0
5	0	0	0	0	0	0
5	0	0	1	0	0	0
6	0	0	0	0	0	0
TOTAL	11	15	12	2	7	1
PCT.	24%	33%	26%	4%	15%	2%

Totals by Masters I&II Institution—Policies

	Web Based Policies			Written
Region	Copyright	Intellectual Property	Info. Sharing	Antitrust Policy
1	0	0	0	0
1	0	0	0	1
1	0	0	0	0
2	0	0	0	0
2	0	0	0	0
2	0	0	0	0
3	0	0	0	0
3	1	0	0	0
3	0	0	0	0
3	0	0	0	0
3	0	0	0	0
3	0	0	0	1
4	0	0	0	0
4	1	1	0	1
5	0	0	0	0
5	0	0	0	0
5	0	0	0	0
5	0	0	0	0
5	0	0	0	0
5	0	0	0	0
5	0	0	0	0
5	1	1	0	0
5	0	0	0	0
5	1	1	0	0
5	0	0	0	0
5	0	0	0	0
1	0	0	0	0
1	0	0	0	0
2	0	0	0	0
2	0	0	0	0
2	0	0	0	0
2	0	0	0	0
3	0	0	0	0
3	0	0	0	0
3	0	0	0	0
3	0	0	0	0
3	0	0	0	0
3	0	0	0	0
4	0	0	0	0
4	0	0	0	0
4	0	0	0	0
5	0	0	0	0
5	0	0	0	0
5	0	0	0	0
5	0	0	0	0
6	0	0	0	0
TOTAL	4	3	0	3
PCT.	9%	7%	0%	7%

APPENDIX C

CASE STUDY OVERVIEW

Case Study Overview

	1	2	3	4	5
Region	North Central	North Central	North Central	North Central	Southern
Carnegie Class	Research I	Specialized	Research II	Research I	Specialized
Control	Public	Private	Public	Public	Private
A	Central Control	Central Control	Central Control	Yes	Yes
B	Outreach Dev.	President	Dean/Director	Director	Vice President
C	2500	15000	5000	11500	8500
D	50	50	150	110	30
E	0	12	20	40	150
F	Additional salary	None	Stipends	Additional salary	None
G	Yes, Chancellor	No	No	Yes, Vice President	Yes, Board
H	No	Yes	Yes	Yes	Yes
I	No	No	No	Yes	No
J	Yes, Chancellor	Yes, Dean	In 12 mo.	Yes, Vice President	Yes, Board
K	Yes, Chancellor	No	Yes	Yes	Yes
L	No	No	No	No	No
M	Copyright,Int. Prop.	In 12 mo.	No	Copyright, Int. Prop.	No
N	Workshops	Faculty handbook	Informal	Faculty handbook	Faculty handbook
O	None	None	None	Memorandums	Contract

	6	7	8	9	10
Region	Southern	Southern	New England	Middle States	Northwest
Carnegie Class	Research I	Research I	Baccalaureate	Research I	Doctorate I
Control	Public	Public	Private	Private	Public
A	No	Central Control	Central Control	Central Control	Central Control
B	Dean	Director	Dean	Dean	Director
C	11155	14000	5000	20000	3800
D	70	5	0	28	20
E	7	49	22	60	15
F	Additional salary	Additional salary	None	Bonus	Additional salary
G	Yes, Academic	Yes, Chancellor	Yes, Human res.	Yes, Dean	Yes, Director
H	Yes	Yes	Yes	Yes	Yes
I	Yes	No	No	No	No
J	Yes, Admin.	Yes, Chancellor	In 12 mo.	In 12 mo.	Yes, Director
K	Yes	Yes	Yes	Yes	Yes
L	No	No	No	No	No
M	No	Copyright, Int. Prop.	No	Copyright, Int. Prop.	Copyright, Int. Prop.
N	Informal	Faculty handbook	Informal	Faculty handbook	Faculty handbook
O	Coordinator	None	Informal	In 12 mo.	None

REFERENCES

Basic Books v. Kinko's Graphics Corp., 758 F. Supp. 1522 (1991).

Barton, L., & Cartwright, G. P. (1997). Reciprocal technology transfer, changing partnerships. Change ,4, 44-47.

Bell, N.K. & Associates (1997). "1996-97 report of the Task Force on Distance Education of the University of North Texas." Unpublished paper of the University of North Texas, Denton.

Bennett, S. (1993). Copyright and innovation in electronic publishing: A commentary. The Journal of Academic Librarianship, 19, 87-91.

Berg, G. (1997). Digital copyright policy issues in higher education. Distance Learning in Higher Education, 12, 34-36.

Berg, Z. (1999). Barriers to online teaching in post-secondary institutions: Can policy changes fix it? Journal of Distance Learning Administration, 14, 44-59.

Bittner, W., & Mallory, H. (1933). University Teaching by Mail. New York: Macmillan.

Brownell, G. (1992). Computers and teaching (2nd ed.). Los Angeles: West.

Burgess, W. E. (1997). The Oryx guide to distance learning: A comprehensive listing of electronic and other media-assisted courses. Phoenix, AZ: The Oryx Press.

Capezio, R., & Morehouse, D. (1992). Total quality management: The road of continuous improvement. Shawnee Mission, KS. : National Press Publications.

Carlson, D., Nickels, T., & Street, R. (1992). A model antitrust policy for colleges and universities. Journal of Student Financial Aid, 22, 5-15.

Cartwright, G. P. (1999). IT in higher education. Change, 6, 17-33.

Colyer, A. (1997). Copyright law, the Internet, and distance education. The American Journal of Distance Education, 3, 41-52.

Chickering, A. W.& Ehrmann, S. C. (1996). Implementing the seven principles. AAHE Bulletin, 49, (2), 2-4.

Crews, K. D. (1999a). "Copyright and distance education: Lawful uses of protected works." Unpublished paper for the Indiana Higher Education Telecommunication System, Indiana University, Bloomington.

Crews, K. D. (1999b). "Summary of U.S. Copyright Office Report on Distance Education." Indianapolis: Indiana University-Purdue University.

Cubby, Inc. v. CompuServe, Inc., 776 F. Supp. 135 (1991).

Denning, P. (1996 November-December). Business designs for the new university. EDUCOM 3, 43-48.

Dillon, C. L.& Cintron, R. (1997). Building a working policy for distance education. New directions for community colleges. San Francisco, CA: Jossey-Bass.

Diotalevi, R. (1997a). Copyright law: A guide for the new millennium. Journal of Distance Learning Administration, 7, 16-25.

Diotalevi, R. (1997b). Copyrighting cyberspace: Unweaving a tangled web. Journal of Distance Learning Administration, 8, 22-32.

Diotalevi, R. (1998). The Digital Millennium Copyright Act. Journal of Distance Learning Administration, 13, 14-18.

Eddy, J.P. (1999). Intellectual property rights in higher education. Unpublished manuscript, The University of North Texas, Denton.

Eddy, J.P., Burnett, J., Spaulding, D.J., Murphy, S.D. (1997). Technology assisted education. Education Journal 117(3), 478-480.

Eddy, J.P., Spaulding, D.J. (1996). Internet, computers, distance education and people failures: research on technology. Education Journal 116(3), 391-393.

Evans, T. (1989). Research in distance education. Revised papers from the research in distance education seminar. Victoria, Australia: Deakin University.

Evangelauf, J. (1994, April 6). A new Carnegie Classification. Chronicle of Higher Education, A17-A33.

Feagin, J.; Orum, A.; Sjoberg, G. (1991). A case for the case study. Chapel Hill: The University of North Carolina Press.

Garrison, D. R.; Shale, D. (1990). Education at a distance: From issues to practice. Malabar, FL: Robert E. Krieger.

Gellman-Danley, B., & Fetzner, M. J. (1998). Asking the really tough questions: Policy issues for distance learning. Journal of Distance Learning Administration, 8, 12-22.

Genetech, Inc. v. Eli Lilly and Company and the Regents of the University of California, 998 F. 2d 931 (1993).

Goldfarb v. Virginia State Board, 421 U.S. 773 (1975).

Gubernick, L. & Ebeling, A. (1997). Click your way to an M.B.A. Forbes, 28, 43-48.

Hill, M.A. (1996). Master plan for distance learning: An evolving technological process: In response to House Bill 85 of the 74th Texas Legislature. Austin: Universities Division of the Texas Higher Education Coordinating Board, 1-65.

Holmberg, B. (1977). Distance education: A survey and bibliography. London: Kogan Page.

Hubbard, G. (1995). Distance education: Research, current practice and House Bill 2128. Denton: Texas Center for Education and Technology.

The Institute for Higher Education Policy. (1999). What's the difference? A review of contemporary research on the effectiveness of distance learning in higher education. Washington, DC.

Kaplin, W., & Lee B. (1995). The law of higher education: A comprehensive guide to legal implications of administrative decision making. San Francisco: Jossey-Bass.

Kaplin, W., & Lee B. (1997). A legal guide for student affairs professionals. San Francisco: Jossey-Bass.

Keast, D. A. (1997). Toward an effective model for implementing distance education programs. The American Journal of Distance Education, 2, 3-8.

Keegan, D. (1986). The concept of distance education. In D. Keegan (Ed.), The foundations of distance education (Part 1, pp. 3-54). Dover, NH: Croom Helm.

Keegan, D.(1994). Otto Peters on distance education: The industrialization of teaching and learning. New York: Routledge.

King, J.W., Nugent, G.C., Russell, E.B., & Lacy, D. (1999). Distance Education Policy in Post-Secondary Education: Nebraska as a Case Study. Paper presented at University of Wisconsin, 15th Annual Conference on Distance Teaching and Learning, Madison: University of Wisconsin.

Lee, A. J., & Marsh, T. G. (1998). Joint ventures in distance education: Mapping uncharted terrain. The American Journal of Distance Education, 2, 54-66.

Lenington, R. (1996). Managing higher education as a business. Phoenix, AZ: Oryx Press.

Marjorie Webster Junior College v. Middle States Association, 432 F. 2d 650 (1970).

Masoner, M. (1998). An audit of the case study method. New York: Praeger.

Matkin, G. (1990). Technology transfer and the university. New York: Macmillan.

Miles, M.B., & Huberman, A.M. (1988). Drawing valid meaning from qualitative data: Toward a shared craft. In D.M. Fetterman(Ed.), Qualitative approaches to evaluation in education: The silent scientific revolution,(pp. 38-67). New York: Praeger.

Miller, T. (1997). Coursepacks and copyright: Fair use in Princeton University Press v. Michigan Document Services. Journal of College and University Law, 23, 525-562.

Moore, M. (1990). A market driven distance education system? The American Journal of Distance Education, 4, 2.

Morgan, A. (1991). Case-study research in distance education. Victoria, Australia: Deaking University.

National Center for Education Statistics.(1997). Distance education in higher education institutions. National Center for Education Statistics 98-063. Washington, DC.

Norris, D. M., & Olson, M. A. (1997). Preparing for virtual commerce in higher learning. Cause/Effect, 20, 40-44.

Olcott, D.,Jr., & Wright, S. J. (1995). An institutional support framework for increasing faculty participation in postsecondary distance education. The American Journal of Distance education, 9, 5-16.

Parker v. Brown, 63 S.Ct. 307 (1943).

Peters, M. (1999). Statement of register of copyrights before the Committee of the Judiciary United States Senate. U.S. Copyright Office, 106th Congress, 1st session. Washington, DC.

Peterson, M. (1982). New directions for institutional research. San Francisco: Jossey-Bass.

Peterson's. (1998). Peterson's guide to distance learning. Princeton: Peterson's Publishing.

Peterson's. (1999). Peterson's guide to distance learning. Princeton: Peterson's Publishing.

Phipps, R., & Merisotis, J. (April, 1999). What's the difference? A review of contemporary research on the effectiveness of distance learning in higher education. Washington DC: The Institute for Higher Education Policy.

Phipps, R. A., Wellman, J. V., & Merisotis, J. P. (1998, April). Assuring quality in distance learning: A preliminary review. Washington, DC: Council for Higher Education Accreditation.

Price, J. (1996). Colleges and universities as internet service providers: Determining and limiting liability for copyright infringement. Journal of College and University Law, 19, 183-229.

Primary Research Group, Inc. (1997). The survey of distance learning programs in higher education. New York.

Princeton University Press v. Michigan Document Services, 99 F. 3d 1381 (1996).

Rea, L. (1991). Designing and Conducting Survey Research. San Francisco: Jossey-Bass.

Religious Tech. Ctr. v. Netcom ON-Line Communication Serv's, Inc., 907 F. Supp. 1361, 1368 (1995).

Richmond, D. (1993). Antitrust and higher education: An overview. University of Missouri at Kansas City Law Review, 417, 220-276.

Rodenhouse, M. (1997). 1997 higher education directory. Falls Church: Higher Education Publications.

Seaman, D., Ogden, L., Hopkins, B., & Back, M. (1994). Purchasing performance benchmarks for higher education. Tempe: Arizona State University, Center for advanced Purchasing Studies. Center for advanced Purchasing Studies.

Sieb, J. (1985). Antitrust and nonmarket goods: The Supreme Court fumbles again: National Collegiate Athletic Association v. Board of Regents. Washington Law Review, 60, 721-737.

Smith, K. (1999). The attitudes of higher education chief business officers toward antitrust risk in proprietary activities. Unpublished manuscript, The University of North Texas, Denton.

Spendolini, M.J. (1992). The Benchmarking Book. New York: American Management Association.

Spinella, F. (1988). Categorization and presumptions in horizontal antitrust cases. New England Law Review, 22, 295-313.

Srinivasa, S. (1994). College financial aid and antitrust: Applying the Sherman Act to collaborative nonprofit activity. Stanford Law Review, 46, 242-260.

Stake, R. (1995). The art of case study research. Thousand Oaks, CA.: SAGE.

Thorson, M. K. (1998). Campus-free college degrees: Thorson's guide to accredited college degrees through distance learning. Tulsa, OK: Thorson Guides.

Trustees of the California State University. (1995). Fair use of copyrighted works: A crucial element in educating America. California State University, State University of New York, City University of New York.

Trustees of the California State University. (1997). Ownership of new works at the university: Unbundling of rights and the pursuit of higher learning. California State University, State University of New York, City University of New York.

United States v. Brown University, 5 F. 3d 658 (1993).

United States v. LaMacchia, 871 F. Supp. 535 (1992).

University System of Maryland (1998). White Paper from the Chancellor's Symposium on Policy and Distance Education. College Park, MD: Institute for Distance Education, USM.

Wolcott, L. (1997). Tenure, promotion, and distance education: Examining the culture of faculty rewards. The American Journal of Distance Education, 2, 3-10.

Yin, R. (1993). Applications of case study research. Thousand Oaks, CA.: Sage.

Yin, R. (1994). Case study research: Design and methods. Thousand Oaks, CA.: Sage.

Young, K.E. (1984). Correspondence education: From the back of the bus to the driver's seat? Proceedings of the National Invitational Forum on correspondence education. Columbus, OH. (ERIC Document Reproduction Service No. ED 250 498)